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ABSTRACT

This study examines activities of the South Carolina Department of Education directed toward implementation of Public Law 99-457 (the Education of the Handicapped Act Amendments 1986) which called for special education for preschool children with disabilities. The study specifically documents the number of children served, number of children projected to be eligible for early childhood special education, and budget expenditures. It also documents the outcomes of recommendations from a prior study, analyzes the use of mediation between parents and local education authorities, summarizes current legal issues in the implementation of Public Law 99-457, and describes a strategic planning process to enhance the delivery of Public Law 99-457 services. Appendixes provide statistical data supporting the study, letters and memoranda, Medicaid information, a parent survey form, a survey on the status of teacher training, court rulings, and extended school year program information. (JDD)

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The 1992 Assessment of the S.C. Department of Education's Efforts to Implement P.L. 99-457: Special Education for Preschool Children with Disabilities

Prepared for
The Joint Legislative Committee on Children
Senator Nell W. Smith, Chairman

by

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and
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June 1, 1992

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PREFACE

The Education of the Handicapped Act Amendments of 1990 were signed into law on October 30, 1990. P.L. 101-476 gave the Education of the Handicapped Act and its amendments a new title - Individuals With Disabilities Education Act (IDEA). Another significant change made by this law was that the language of IDEA reflects both "person first" language and the use of the word "disability" and not "handicap." The legislation requires that the entire statute be amended to make these changes, i.e., "infants and toddlers with disabilities" and "children with disabilities." These changes are used in the language of this document. This document also uses the acronym IDEA in place of P.L. 94-142, as amended, when appropriate or uses IDEA in parentheses following citation of P.L. 94-142. Document language reflects first person and use of "disability" rather than handicap whenever possible. Reference continues to be made to P.L. 99-457 to reduce confusion to the reader.

INTRODUCTION

In 1991, under the directive of Budget Proviso 28.117, the South Carolina General Assembly completed a study entitled "An Assessment of the South Carolina Department of Education's (SDE) Efforts to Implement P.L. 99-457: Special Education for Preschool Children with Disabilities." The 1991 study provided analysis on many of the issues surrounding implementation of 99-457 by the SDE, and provided a number of recommendations to the SDE concerning the provision of these special education services. That particular study, dated April 1, 1991 and written by Sherry H. Driggers, Ed.D., was produced for the General Assembly by the Joint Legislative Committee on Children in response to the directive of 1991 Budget Proviso 28.117.

The 1992 budget bill contained Proviso 28.114, which redirected the Joint Legislative Committee on Children to continue "planning and development of the preschool handicapped services as established under P.L. 99-457". Under the direction of the 1992 Budget Proviso, this document was developed as a continuation of the original 1991 study. A description of the 1992 study follows.

The 1992 P.L. 99-457 Study

The 1992 P.L. 99-457 Study is essentially designed as a follow-up study to last year's effort. The specific purposes of the 1992 study are as follows:

I. To document the number of children and the 1991 expenditures by budget,

  1. Determining the number of children served by age, by disability and by program service model and;
  2. Comparing the number of Children (3-5) projected from the 1990 census data with the number of children actually identified and served during the 1990-91 school year; and
  3. Describing last year's allocation and expenditures.

II. To document the outcomes of all recommendations from the 1991 study.

III. To analyze the use of mediation between parents and LEA's on P.L. 99-457 service issues.

IV. To develop a summary of current legal issues in the implementation of P.L. 99-457 in South Carolina.

V. To describe a strategic planning process to enhance the delivery of P.L. 99-457 services.

Section I - Number of Children and Financial Allocations

The 1991 study contained a section addressing the cost and financing of a program to serve preschool children ages 3-5 years with disabilities. That section offered several propositions regarding 1) the incidence rate to project the potential number of children to be served and 2) the program model method to be used to determine program cost and per pupil cost.

With regard to the incidence rate, the national incidence rate used by states ranges from 3-7%, and the SDE chose to use 6%. The '91 study recommended the use of a 5% incidence rate based on a projected number of 3-5 year old children for the years 1987-1992. This projection was provided by the State Data Center, Division of Resource and Statistical Services, and was based on 1980 census data.

Pupil data from the December 1, 1991 Report of Children and Youth with Disabilities Receiving Special Education Part B, Individuals with Disabilities Education Act (IDEA), indicated that local school districts served a total of 8,671 children, ages 3-5 years. (Appendix A). The following provides a breakdown by age:

Age	# Children	
3	796	
4	2,651	
5	5,224	
	8,671	Total

Program models utilized included itinerant, self-contained, speech and home-based.

The 8,671 figure reflects 5.3% of the total number of children ages 3-5 in South Carolina, in 1991. Thus, the incidence rate was minimally larger than the projected 5%, but less than the 6% incidence rate. Table 1 provides this information.

Table 1

Year	Census of Children Ages 3-5	No. Served	% of Total
1987	157,600	6,973	4.4
1988	158,700	7,334	4.6
1989	160,100	7,879	4.9
1990	161,600	7,941	4.9
1991	162,000	8,671	5.3

In the 1991 study, it was also noted that the majority of states use an 80% participation figure in determining costs for service delivery. Using the 6% incidence rate, a comparison of the 3-5 year olds to the number of children served in the years 1987-1990 resulted in an average of 79.75% being served, which supported the 80% participation estimate. When the 1991 year figures are added, the average increased to 81.6%, validating the use of an 80% participation estimate. Table 2 provides this information.

Table 2

Year	Census	6%	Served	Percent
1987	157,600	9,456	6,973	73
1988	158,700	9,522	7,334	77
1989	160,100	9,606	7,879	86
1990	161,600	9,696	7,941	82
1991	162,000	9,720	8,671	89
			Average	81.6%

The total number of children served in 1991-92 in South Carolina increased by 730 children as compared to 1990-1991. The study shows that the number of 3-5 year olds served varied considerably from state to state. Georgia increased 1,365 children; Arizona increased 958 children; Missouri increased 1,192 children; Kansas increased 648 children; and North Carolina increased 483 children. These were states that began full preschool year implementation in

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1991--91 and had data readily available. Full preschool year means that all preschool services were offered the initial implementation year. These states reported that the increase was attributed to strong local commitment and significant legislative support.

When Office of Exceptional Children (OEC) data and Finance Office figures are compared, the SDE Finance Office figures reflect a larger number of 3-5 year olds served when determining funds allocated from the Preschool Proviso. The December 1 count from OEC issued for allocations from OSEP occurs mid year. The Finance figures are a result of the school's 135 day enrollment figures and probably reflects a "truer count" of children served.

Data from the SDE Finance Office regarding the Budget Proviso funds is shown in Table 3.

Table 3

900 Other
125 Speech
0 Fiveyr

District Name	Row	Age	Itinerant	Self Contained	Home Based	Speech	Total	Allocation	State Support	Total Allocation
State	1	3	103	351	40	267	761	477,975		
Totals	•2	4	225	458	48	1802	2533	835,325		
	3	5	234	464	95	4673	5466	0		
	4	Totals	562	1273	183	6742	8760	1,313,300		902,333•
	•5	# VH/HH ON ROW 2	10	42	1	1	54			

Staff at the SDE Finance Office felt one reason for the total Budget Proviso allocation not being utilized was that districts were making reporting errors on students eligible for the state dollars. Additionally, it was noted during the review of the Preschool Grant applications that several districts were serving Alternate I Children (EMH, ED, EH) in resource rooms. The resource room model did not qualify for Budget Proviso funds.

These figures show a total of 8,760 three to five years olds served. Substraction of the 54

VH/HH four year olds results in a total of 8,716, a difference of 45 children from the 8,671 total based upon the Office of Exceptional Children (OEC) December 1, 1991 count.

It is also interesting to note from the Finance Office figures that 77% of the 3-5 year old children served were identified as having speech and language disabilities. Preschool grant application review reflected that most 3-4 year olds served were identified as speech and language delayed. Data from other states also reflects that the majority of new 3-5 year old children served were in the speech and language category.

The SDE projections in the **SDE Study** by program model were:

Self-contained	790 Students
Itinerant	2,000 Students
Home Based	750 Students
Speech	5,300 Students

The Finance figures for the '91-'92 school year yielded the following actual totals for children served by program model:

Self-contained	1,273
Itinerant	562
Home Based	183
Speech	6,742

These figures would lead one to assume that 1) the children served this past school year were more involved/disabled than anticipated as evidenced by the larger number in self-contained programs, requiring more structured programs and additional educational staff, or 2) since the resource room model was not "fundable," a larger number than normal were served in self-contained programs. The smaller number of children in home based programs does appear to validate a less involved/disabled population. However, these numbers could also be construed to reflect, due to the small number of three year olds served, that "Child Find" efforts need to

program is delaying services to this population.

While the data from the SDE Office of Exceptional Children and the data from the Finance Office is contradictory, it is within tolerance levels since 1) reporting formats differ for each office 2) the districts often have minor reporting errors and 3) the Finance Office figures are based on actual enrollment/ADM.

A review of funding sources for 3-5 year old preschool children with disabilities resulted in a total allocation of federal grant funds to South Carolina for the Education of Children with Disabilities (IDEA) of $30,591,250, and a Preschool Grant allocation of $6,327,379. Federal special education funds allocated to South Carolina totaled $36,918,629. State funds allocated by Budget Proviso totaled $1,313,300. In an effort to determine the amount funded by the Education Finance Act (EFA), (for 3-5 year old children with disabilities) the staff at the SDE Finance Office adjusted the assigned weighting by disability for each disability area and developed a statewide average. Thus, an estimated total for EFA funds was done in the interest of time and based upon available data. The total EFA allocation was $6,607,553. State funds totaled $7,920,853 of which $6,000,123 were in the speech/language category. Table 4 contains EFA information.

Table 4

Code	WT	WT ADJ	Days	ADM	Adjusted Weighted Count	Dollars
K	0.65	0.00	5,299,575	39,256	0.0000	$0
EMH	1.74	1.09	5,961	44	48.1296	50,679
LD	1.74	1.09	3,701	27	29.8821	31,465
TMH	2.04	1.39	16,657	123	171.5054	180,589

Code	WT	WT ADJ	Days	ADM	Adjusted Weighted Count	Dollars
EM	2.04	1.39	3,488	26	35.9135	37,815
OH	2.04	1.39	8,580	64	88.3422	93,021
VH	2.57	1.92	3,394	25	48.2702	50,827
HH	2.57	1.92	7,980	59	113.4933	119,504
SP	1.90	1.25	615,420	4,559	5,698.3333	6,000,123
HO	2.10	1.45	3,623	27	38.9137	40,975
Total			**5,968,379**	**44,210**	**6,272.7834**	**$6,607,554**

As of the writing of this report, a total of $476,574 has been reimbursed to 24 LEAs utilizing the medicaid program with a potential allocation of $2 million dollars. An underlying difficulty in assessing how these several funding streams are directed to services for 3-5 year preschool children with disabilities is the lack of "tracking" of the dollars from Federal allocation by the SDE to service delivery in the local school districts. This area needs to be addressed through a strategic planning process discussed at length later in the report.

Section II - Outcomes from 1991 Study

The recommendations from the 1991 study are reprinted in pertinent part, followed by a discussion of the outcome of each recommendation.

As each of the recommendations from last year's study is discussed, SDE efforts at implementation will be reviewed. Within the context of what may appear to be extensive criticism, it is important to note that substantial progress has been made by the SDE and the HHSFC in the utilization of Medicaid for P.L. 99-457 services. This alone is worthy of tremendous recognition due to its positive impact upon the resources available to LEAs, and the SEA efforts in this area probably represent its most meaningful contributions to leadership in P.L. 99-457 services.

Additionally, the SDE changes (to be discussed) in the interim guidelines reflect progress towards developing a more flexible and equitable approach to eligibility.

Recommendation 1:

1. **"The SDE needs to take stronger leadership and technical assistance roles in the implementation of P.L. 99-457." "An Assessment of the S.C. Department of Education's Efforts to Implement P.L. 99-457: Special Education for Preschool Children with Disabilities."** (An Assessment, p. 48, ¶ 4).

The past year has seen a degree of improved efforts by the SDE with regard to its leadership role. A list of some specific efforts which involve LEAs follows:

A. June 25 and 27, 1991. Meetings in Rock Hill and Columbia for all District Superintendents and Coordinators of Programs for the Handicapped. The purpose was to discuss implementation issues on P.L. 99-457.

B. July 25, 1991. Memorandum from SDE to County and District Superintendents. The purposes of the memorandum was to inform on the data reporting process as necessitated under the 1991 Proviso 28.114, and to elaborate upon the service delivery models.

C. August 20, 1991. Memorandum from SDE to County and District Superintendents. The purpose was to explain the consolidated district report form.

D. September 16, 1991. Memorandum from SDE to County and District Superintendents, Coordinators of Programs for the Handicapped, State Operated Programs and Head Starts. The memorandum represents the first documentation of SDE position on several P.L. 99-457 implementation issues following the June meetings (Appendix B).

E. September 19-20, 1991. A thirty-minute presentation on the status of P.L. 99-457 services at the "Orientation Conference for Newly Appointed Coordinators of Special Education".

F. October 7, 8, 9 1992. Fall Administrators' Conference. Significant agenda presentations on implementing P.L. 99-457 services, including pre-school topics of LRE/IEPs, Program Models/Curriculum, Personnel Training, Child Find/Assessment, Funding/Transportation, Collaboration/Transportation (Appendix B).

G. January 21, 1992. Memorandum from SDE to District and County Superintendents and Program Coordinators. The purpose of this memorandum was primary documentation of the extension of P.L. 99-457 requirements concerning assessment, IEPs, due process, etc, to include children with disabilities upon reaching their third birthday (Appendix B).

H. March and April, 1992. A series of five statewide public hearings on the issues surrounding implementation of P.L. 99-457.

Overall, the actions taken by the SDE in this area represent beginning efforts at leadership. However, questions remain as to the sufficiency of these efforts. Interviews with five special education coordinators indicate a general perception that efforts have begun slowly, and that some districts continue to perceive themselves as "out on a limb" with little substantive and meaningful support. This is especially evident when questions arise as to resource needs at the local level. Frequent areas of concern expressed by LEA personnel involve difficulties in planning for yearly services due to unknown numbers of students, lack of summer staff for evaluation, difficulties in obtaining physical therapy and occupational therapy services, lack of safe and protective transportation services, minimal collaboration between other local agencies and budget. Replication of the October 1991 Fall Administrators' Conference in the form of numerous local orientation workshops for LEAs would probably reinforce districts' confidence, and might act as a catalyst for necessary long-term strategic planning. Regional workshops could also allow districts to communicate with one another on problem solving, with a possibility of forming consortia to provide essential services (OT, PT, etc.). As there is no comprehensive strategic planning underway for the full implementation of P.L. 99-457 services, the SDE seems to have opted instead for a model of minimal implementation on a year by year basis. This situation may have its basis in factors both within and outside of the SDE.

Although technical assistance from the SDE has been readily available to the districts on an individual basis, there is no full-time employee assigned at the state department level for coordination of and consultation on preschool handicapped programs. A number of state consultants are assigned various responsibilities for the preschool handicapped program, i.e., programmatic issues are handled by 2 consultants, medicaid issues by another consultant and complaints by yet another consultant.

One key factor in the "minimal implementation" approach from the SDE viewpoint appears to be the lack of permanent implementing legislation. The SDE personnel interviewed for this study all expressed serious concerns that the General Assembly's failure to pass House Bill 3328 (Senate companion Bill 632) indicated only a tentative commitment by the legislature towards these services. However, if permanent legislation were to go into effect in the immediate future, it should require a substantial commitment on the SDE's part to engage in a comprehensive planning process for the delivery of these special education services. Without such a commitment, it is doubtful that the SDE can begin to assure more uniform growth and quality in the programs among and between the various districts.

Recent restructuring of the SDE, while potentially yielding long-term benefits, also seems to have temporarily delayed the agency's capacity to respond on issues involving P.L. 99-457. And while some delay can be somewhat understood given the scope of the agency's overall task, many possible responses which are **within the immediate capacity** of the SDE are being overlooked.

For example, a review of available federal grants from OSEP reveals that grants have been available in the areas of personnel training (five 60 month grants) and interagency/private sector coordination efforts ($2 million for 20 projects to facilitate interagency and private-sector resource efforts to improve services; $600,000 for about four projects to enhance professional knowledge, skills and strategies; and $600,000 for about four grants for projects to reduce out-of-community programs by improving services to children and their families). Yet a review of current SDE efforts fail to reveal any progress to secure such funding. Both areas covered by these grants represent deficits in our current service delivery system, and it would appear that a substantial effort to secure such funds would benefit the state.

Yet another telling example of the SDE's lapse in leadership has been its failure to maximize the involvement of parents in development and implementation of their children's programs. While the 1992 efforts at regional meetings on P.L. 99-457 were certainly laudable, the agency maintains a 1-800 number for Ombudsman services, yet **keeps no database** on the types of inquires received from parents. Compared to the enormous effort required to organize the regional meetings, data collection at a key point of parent contact with the system is obviously manageable and yet seems to have been completely overlooked. (This observation is in line with the comments in Recommendation 2 of the '91 study regarding the need to maintain comprehensive and accurate data). Furthermore, a review of preschool grant applications has indicated almost **no** use of these funds for resources to encourage parental involvement at the LEA level.

Recommendation 2:

2. **"The SDE and the school districts need to maintain comprehensive and accurate data for these purposes."** (An Assessment, p. 48, ¶ 2).

To meet the purposes of this study, essential data was gathered from several sources within and outside the SDE. During this process it became readily apparent that data being collected by the OEC is not necessarily inclusive of all the data needed for program planning. For example, when asked to provide data regarding the Budget Proviso funds distribution, the only data readily available from the Office of Finance were amounts appropriated by age and program service model. Disability data was not available. The OEC needs to maintain a complete data report of 3-5 year old children by age, disability, and program models. The Office of Finance could capture this information as well. The OEC and Office of Finance could then cross check their figures and have more accurate data for planning purposes.

A second example of a lack of data compilation and coordination is found in the determination of EFA funds. Totals are not maintained **district by district** but on a statewide basis. If individual district based data were available, OEC might be able to determine and plan a more equitable distribution of state funds. State dollars might better serve different populations in the various areas of the state and the OEC might better assist individual districts with their fiscal planning. Again, comprehensive and coordinated data is a sound base for strategic planning, and a recognition of this fact by the SDE would yield enormous gains in program development.

The need to maintain comprehensive and accurate data to determine costs and for planning purposes is reflected in the following fiscal analysis completed by Richland School District Two.

Richland Two served 59 three and four year old handicapped students. The total program cost for these students was calculated at $275,390. State funds allocated by Budget Proviso totaled $21,325.00. Federal funds to the district (P.L. 99-457 and P.L. 101-476 (IDEA)) totaled $22,543. The local costs amounted to $184,512 or 67% of the total cost for the preschool programs. The per pupil speech cost was $769 and the average per pupil cost for self-contained and integrated classrooms was $13,548. The greatest cost factor was in salaries for teachers/aides. The second largest cost was related services, followed by transportation costs. Administrative and facilities costs were the lower cost items since programs were already established for school age children.

In the final calculation, the local school district bore 86% ($184,512) of the cost for the preschool handicap program. If nothing else, this figure emphasizes the need to maximize third party funding for these programs. Related services costs were $52,082.48. If medicaid was accessed, the costs may have been reduced by as much as $49,057 (75% match) which would have reduced local costs by 21%. If local school districts will identify and maintain appropriate data for special education services, the planning process for the next school year would be greatly enhanced and data would be available to support the need for increased funding or possible redistribution of current or available funds.

Recommendation 3:

3. **"Medicaid utilization will reduce costs of special education services and should be actively pursued..."** (An Assessment, p. 48, ¶ 3).

During 1991, a memorandum of agreement was executed by the South Carolina Health and Human Services Finance Commission (HHSFC) and the South Carolina Department of Education (Appendix C). Although case management is not listed as a service, the MOA does reference audiological services, speech pathology services, psychological evaluation/services, physical therapy and occupational therapy. The medicaid state plan was amended by the HHSFC in September 1991 to allow school districts to be enrolled as providers.

Currently, twenty-four school districts are participating in the medicaid reimbursement program. At the initiation of the program, local school districts provided the state match dollars "up front". The SDE Office of Finance deducts LEA "match" funds from state funds, usually from the district's general fund. The money is then transferred to the HHSFC by interdepartmental transfer. The LEAs then bill the HHSFC for services rendered and Medicaid reimbursement is sent directly to the school district.[1]

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[1] some school districts are utilizing a billing service/agency.

Table 5 provides information on individual district participation.

Table 5

OBS	District Name	Medicaid Payments To Districts	Potential Medicaid Allocation
1	0501 Bamberg 01	72,524.00	132,348.00
2	1401 Clarendon 01	40,640.00	86,957.00
3	1402 Clarendon 02	14,306.00	47,875.00
4	1403 Clarendon 02	3,353.00	15,340.00
5	1601 Darlington 01	38,956.00	117,418.00
6	1701 Dillon 01	5,676.00	14,525.00
7	1702 Dillon 02	0.00	66,430.00
8	1703 Dillon 03	10,496.00	34,356.00
9	2101 Florence 01	24,754.00	118,614.00
10	2102 Florence 02	22,002.00	38,182.00
11	2103 Florence 03	64,528.00	128,098.00
12	2104 Florence 04	2,208.00	56,909.00
13	2105 Florence 05	12,368.00	21,317.00
14	2301 Greenville 01	0.00	187,666.00
15	3056 Laurens 56	64,223.00	156,865.00
16	3101 Lee 01	29,900.00	71,971.00
17	3401 Marion 01	23,666.00	51,170.00
18	3402 Marion 02	21,715.00	39,792.00
19	3403 Marion 03	10,760.00	21,280.00
20	3404 Marion 04	0.00	18,492.00
21	3501 Marlboro 01	0.00	100,914.00
22	4207 Spartanburg 07	11,860.00	245,300.00
23	4302 Sumter 02	0.00	136,156.00
24	4501 Williamsburg 01	2,640.00	103,636.00
25	5243 Health and Human	0.00	0.00
Totals		**$476,574.00**	**$2,011,612.00**

In the initial exploration of utilization of Medicaid by school district, the HHSFC completed a statewide estimated medicaid expenditures and estimated state match for eligible services for local school districts. Table 6 contains this information. Appendix C contains the complete medicaid estimate by individual school district compiled by the HHSFC.

Table 6

Service	Estimated Medicaid Expenditures	Estimated State Match
Speech Therapy	$9,347,233	$2,583,011
Psychological Services	1,076,157	295,052
Physical Occupation Therapy	257,877	70,710
Total	**$10,681,267**	**$2,948,773**

The potential medicaid match is $10.6 million and the state match is $2.9 million. The current federal match is 27% state to 73% federal funds.

Reimbursable services under the previously referenced MOA are as follows:

Physical Therapy: Includes evaluation and treatment services provided as prescribed by a physician in order to (a) preserve and improve abilities for independent functioning, such as gross and find motor skills, range of motion, strength and muscle tone, and (b) prevent progressive disabilities through the use of orthotic and prosthetic devices, assistive and adaptive equipment, positioning, behavior adaptation and sensory stimulation. A component for consultative services with teachers and/or parents will be included under this service.

Occupational Therapy: Includes evaluation and treatment services provided as prescribed by a physician in order to preserve and improve abilities for independent functioning. Service components include therapeutic exercise, neuromuscular re-education, activities of daily living, perceptual activities, fine motor manipulation skills, cognitive skills retraining and consultative services with teachers and/or parents.

Speech Therapy: Services will include evaluations and reevaluations, consultations and the delivery of remediation services for identified disabilities; all in accordance with the criteria as set forth in the student's IEP.

Audiology: Services will include hearing evaluations and reevaluations, consultations, special testing such as impedance and pure tone air conduction, hearing aid evaluations and re-checks, hearing aid orientation and ear molds in order to correct identified disabilities; all in accordance with the criteria as set forth in the student's IEP.

Psychological Services: Services will include a face-to-face interaction between the school psychologist certified by the S.C. Department of Education and the student for the purpose of evaluation of the student's intellectual, emotional, psychological and behavioral status. Evaluation may consist of diagnostic interview, testing and assessment. Testing may include measures of intellectual and cognitive abilities, psychoneurological status, attitudes, emotions, motivations and personality characteristics and utilization of other non-experimental methods of evaluation.

Medicaid reimbursable psychological treatment must focus on the emotional disturbance of the student, as opposed to treatment which is geared strictly toward enhancement of academic performance. The testing and evaluation process must address the students mental or emotional deficit. While academic and vocational testing and advisement are desirable and necessary within the school setting, they are not Medicaid reimbursable services. It would be expected that a primary goal of any treatment would be the restoration of the student's mental and emotional health.

There have been no services added since the initial MOA. However, staff at the HHSFC stated that districts may also request reimbursement for (1) therapeutic foster care and (2) residential treatment services. Additionally, the HHSFC and SDE plan to pilot the Early Periodic Screening Diagnostic Testing (EPSDT) program in two school districts and transportation services in one school district. All 91 school districts will have completed training to begin medicaid access by the fall of 1992.

States' abilities to access Medicaid for special education related services are variable. A review of states' activities related to medicaid and third party reimbursement indicates that South Carolina has done an excellent job of accessing medicaid in comparison to other states. As of 1991, approximately 16 states were currently accessing Medicaid and 19 were either exploring agreements or piloting programs.

Legal issues surrounding third party payment by sources other than medicaid are covered in Section IV of this report.

Recommendation 4:

4. **The MOA process between the SDE and DHEC has already begun and other options for defining transition services may not need to be explored. However, the concept of an interagency council addressing services for both 0-2 year old and 3-5 year old children is worth discussion. If it is not feasible to create such a council, a representative of the Interagency Coordinating Council (ICC) for 0-2 year olds and a representative of the P.L. 99-457 state advisory council serving 3-5 year olds, should serve on each council to ensure communication between the two councils.** (An Assessment, p. 49, ¶ 2)

In the implementation of P.L. 99-457, few issues have drawn as much widespread attention and concern as the transition of children from the services of Babynet to those of the local school districts.

To understand the issues surrounding transition, it is useful to briefly review the statutory and regulatory background of the process.

P.L. 99-457, Section 677(d)(7) requires the "individual family service plan" (IFSP) to contain "the steps to be taken supporting the transition of the handicapped toddler to services provided under Part B to the extent such services are considered appropriate." The reauthorization amendments to P.L. 99-457 (P.L. 102-119) in section 1478 added:

> *(a) Application*
>
> *Any State desiring to receive a grant under section 1473 of this title for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain--*
>
> (8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in preschool programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under part B in accordance with State law, and to review the child program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan...

Beyond the further amendments to the federal statute, the proposed regulations provide additional substantive requirements and definition for transitional services. Section 44-7-2510 et seq. Code of Laws of South Carolina (Infants and Toddlers with Disabilities) provides no substantive requirements for transition services.

The proposed regulations under 34 CFR Part 303 add the new requirement that a State's application for funding include a description of those policies and procedures intended to ensure a smooth transition from early intervention programs to preschool programs. (See Proposed Reg. 303.148). The notes to this proposed regulation are of particular significance:

> (Authority: 20 U.S. 1478(a)(8))
>
> Note 1: Among the matters that should be considered in developing policies and procedures to ensure a smooth transition of children from one program to the other are the following:
>
> - The financial responsibilities of all appropriate agencies consistent with §§ 303.523 and 300.152.
> - The responsibility for performing evaluations of children (see §§ 303.322 and 300.531).
> - The development and implementation of an individualized education program (IEP): or an individualized family service plan ("IFSP") for each child, consistent with the requirements of law (see § 303.344(H) and sections 813(a)(15) and 814(a)(5) of the Act).
> - The coordination of communication between agencies and the child's family.
> - The mechanism to ensure the uninterrupted provision of appropriate services to the child.

In reviewing the current MOA (Appendix D) between the SDE and DHEC, it quickly becomes apparent that its provisions on transition fall **substantially short** of the proposed federal regulations requirement that the agencies:

> (ii) establish a transition plan and (c) if the State Educational agency which is responsible for administering preschool programs under Part B of the Act is not the lead agency under this part, **an interagency agreement between the two agencies to ensure coordination of transition matters.**
>
> (emphasis supplied, proposed Reg 303.148 2(c))

Although the current MOA essentially requires, 1) a meeting between DHEC and LEA personnel, and the child's family, 2) passing of information from DHEC to the LEA and to the family and; 3) the development of a transition plan, **the MOA contains no requirement that**

responsibilities for necessary services be clearly identified and committed between the appropriate agencies to ensure the uninterrupted provision of services. This omission could leave a child "hanging in limbo" awaiting services while agencies debate their responsibilities. It is also worth noting that while Part H requirements found in both statute and regulation address the problem of agency disputes and the necessity for protecting the child's status during such disputes, the process transition from Part H to Part B lacks the same degree of specificity as to how the child should be protected.

It is questionable as to whether the MOA's interagency dispute mechanism, if applied to an issue of transition, would survive judicial review. Referrals of such disputes to the Children's Case Resolution System (CCRS), where decisions may take up to six months, may not adequately protect the rights of the child to a timely resolution of the dispute. See, for example Wilson Co. School District, 1 **Early Childhood Law Policy Reporter** ¶175, and Zollo, 1 **Early Childhood Law and Policy Reporter** ¶75 (Where hearing process to resolve parental complaint was found to have presented sufficient delay to prejudice child's due process rights).

On a positive note, the MOA does reflect an agreement between DHEC and the LEAs to **initiate contact** concerning transition six months prior to Part B eligibility. However, the MOA does not meet federal requirements in that it does not clearly **require** the transition meeting to occur within ninety days of eligibility.

In reviewing the current MOA, it is also interesting to note that the majority of its substantive requirements are directed at the DHEC, and not to the SDE. This "one sided" approach to agency responsibility contributes to a substantial discontinuity between services from the DHEC side to the LEA side. Furthermore, the MOA fails to provide a "family focus" in the process of transition. In fact, p. 2 of the MOA, section 2. b and c appear to be primarily focused on informing the family what it **cannot** expect from the LEA in terms of eligibility.

Overall, it can be fairly stated that the lack of family involvement in the planning of transition services presents a persistent barrier to successful transition. This can partly be attributed to inherently different attitudes between Babynet services provided by DHEC and educational services provided by the LEAs. While LEAs seem to be most focused upon following strictly mandated procedures and the "letter of the Law," early intervention services seem to offer more comprehensive services to parents. Consequently, a recent survey of 50 parents (Appendix D) has indicated a feeling of decrease of involvement during the transition from DHEC services (early intervention) to LEA (education/related services). In terms of the actual provision of services in transition, there also is frequent decrease in the amount or number of services provided--it was not unusual for parents who were interviewed as part of this study to report having the volume of services to their children **cut by as much as two-thirds** after transition. Additionally, because LEAs concentrate on individual therapies and teaching strategies involvement, families sometimes experience difficulty adjusting to preschool programs.

This type of discontinuity in service is--in many instances--unnecessary. A three to five year old child who is eligible under EHA-B (P.L. 99-457) may be provided an IFSP rather than an IEP, if the IFSP contains all the information required in an IEP and all the necessary parties participate in the IFSP's development. Tucker, 1 **Educational Law Policy Reporter** ¶67. Thus, the families' involvement **after** the age of three is protected and even enhanced. We also know from the previously referenced OSEP decision that "parental services" may sometimes qualify as related services under the IEP (for further discussion, see pp. 44-51 of the study).

A review of ten other states' MOAs covering transition reveals a wide range of approaches to this issue and emphasizes South Carolina's desperate need for a clear and substantively meaningful **policy** on family involvement during transition. A renewed exercise in defining such involvement might also provide an opportunity to blend the philosophy and mandates of the Babynet program and the LEAs' programs.

If these improvements in transition planning cannot be implemented through a new MOA, then perhaps it is appropriate for the General Assembly to consider formalizing and defining transition services through statutory enactment. While the disadvantages to statutory implementation are numerous (lack of flexibility, slow to change with need, etc.), such an action by the General Assembly might act as a catalyst to move the concerned agencies toward resolution. In following this line of argument, it may also be appropriate to consider **merging** the state enabling legislation for **all** infants and toddlers with disabilities (age birth through 5) into one comprehensive statutory scheme. This approach has been taken by both Oregon and Pennsylvania, although funding levels in both states presently limit our ability to evaluate its utility. As three to five year old permanent legislation is considered during the next legislative session, it may be useful for bill sponsors to seriously consider addressing these issues in any proposed legislation.

In considering the problem of transition planning, DHEC staff has added a large number of other important issues which should be addressed in transition, but **are not** addressed in the current MOA.

Transition Issues

A. Family-Centeredness

- Not leaving the family out at three
- Assessment and preparation for new settings
- Enabling the sharing of information through parent consent
- Family evaluation mechanism to monitor transition
- Modifications to attain LRE
- Joint parent training
- How to keep the family in charge
- Procedures for explaining to parent and obtaining parent consent

B. Defined Roles and Responsibilities

- Clearly defined responsibilities
- Procedures beyond referral
- Assessment and preparation for new settings
- Blending philosophies and mandates.
- Establishment of strong, formalized linkages between Babynet, LEA, and Head Start and others if funding is present like CRS and DMR
- How to do joint planning

C. Cross Training

- Training for all participating transition team members
- Professionals in both programs respecting and understanding one another
- Joint standards for qualified providers

D. Merging at Policy Level

- Not leaving the family out at age three
- Clearly defined responsibilities
- Policies that merge
- Laws that merge
- MOAs that merge
- Problem-solving group to feedback issues
- Blending philosophies and mandates
- 0-5 State ICC
- Enabling the sharing of information through parent consent
- Joint 0-3 and 3-5 programs
- Establishment of strong, formalized linkages between Babynet, LEA, and Head Start and others if funding is present like CRS and DMR
- Examining the definitions of eligibility for both programs for compatibility
- Child counts

- Joint standards for qualified providers
- How to keep services in place - no time lags
- How to do joint planning
- How to make evaluations mesh so that there is no lag in eligibility
- Procedures for explaining to parent and obtaining parent consent

E. Funding/Staff

- Payment that covers the transition process
- Co-location of staff in the evaluation process
- Child counts
- Who's going to pay and when

F. Joint Program

- Co-location of staff in the evaluation process
- Developing joint child find, training
- Joint 0-3 and 3-5 programs
- Local shaping of programs
- Joint parent training
- How to do joint planning
- How to make evaluations mesh so that there is no lag in eligibility

G. Local

- Local shaping of programs

H. Feedback Loop

- Problem-solving group to feedback issues
- Family evaluation mechanism to monitor transition
- Child counts
- Focus group for children who fall between cracks like health impaired children

The issue of establishing a 0-5 state ICC, as recommended in last year's study, has not been explored. The establishment of a single ICC could benefit the transition process and alleviate some of the concern and frustration experienced by parents and professionals. The ICC is charged under Part H with advising and assisting the lead agency (DHEC) in establishing a statewide system of coordinated, comprehensive, multi-disciplinary, interagency programs.

While not contained in original federal legislation, reauthorization language of P.L. 99-457 specifically spells out ICC membership **stating** "at least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of the agency". Reauthorization language further expands the ICC functions to include **advising and assisting the State education agency regarding the transition of infants and toddlers or with respect to services to children under the age of five.**

Currently, the interests of the 3-5 year old population are addressed by a State Advisory Panel on the Education of the Handicapped, a panel required under P.L. 94-142 for school-age children with disabilities up to age 21. With such an expansive age range, the priorities for service delivery may frequently address the older population since they comprise the larger number of children and LEA experience is greater with this population.

The current general perception of the P.L. 99-457 mandate (possibly a result of funding issues) is that the 0-5 year old group of children are two distinct and separate categories of children needing services. However, the intent of the legislation is clearly aimed at serving one population--0-5 year olds. Consequently, development and implementation of programs for these children should focus on a "seamless" service delivery system. A positive step in this direction **would be to establish a single state ICC.** In Georgia, efforts have already begun to merge existing local Preschool Interagency Councils with the newer Part H Interagency Councils and as mentioned earlier, Oregon and Pennsylvania have merged councils through merging legislation for 0-5 year olds. In South Carolina, there has been no formal effort either to merge the current two interagency councils, or to ensure reciprocal membership on each individual council.

Recommendation 5:

5. **The need for the MOA between Head Start Programs and the SDE has been stressed..."** (An Assessment, p. 49, ¶ 3).

According to the 1990-91 Program Information Report published by the Region IV Resource Access Project (RAP) in Chapel Hill, North Carolina, a total of 1,013 children, ages 3-6 years old were professionally diagnosed as having a disability and enrolled in Head Start programs. This total is from the 15 grantee agencies that responded to the survey. The total actual enrollment in Head Start programs was 7,801. Thus, 12.1% of funded enrollment were children with disabilities (10% required by federal statute). Of the total children with disabilities 387 were three year olds, 574 were four year olds, 51 were five year olds and one was six years old.

Head Start agencies are required to contact their local education agency to develop plans for interagency collaboration which identifies Head Start as a resource for contracted services in meeting the provisions of P.L. 99-457 for the 3-5 year old population. In South Carolina, 73% of the Head Start programs report written or informal agreements with the local education agency. This is only an increase of 3% over the 1989-1990 report.

As of this study's writing, no MOA exists between the SDE and the HHSFC which administratively houses the Head Start Collaboration Demonstration Grant. Although MOAs exist at the local level between LEAs and Head Start programs, there has been no formal supervision of those MOAs, or "modeling" of workable agreements by the SDE.

Table 7 shows that South Carolina is at the bottom in the eight state region with regard to agreements between LEAs and Head Start programs.

Table 7

Percentage of State Programs Reporting Written or Informal Agreements with the Local Education Agency[2]

State	Percentage
Mississippi	100%
Tennessee	96%
Florida	96%
North Carolina	93%
Alabama	92%
Georgia	91%
Kentucky	85%
South Carolina	73%

Thirteen of the fifteen respondents in the RAP study also have written an informal agreement with other agencies.

If MOAs prove unfeasible, other states have approached collaboration efforts in various ways. In Arizona, a part-time consultant is available to work individually with LEAs and local Head Start programs to assist them in increasing collaborative activities. Georgia is also focusing activities on Head Start collaboration at the state level. In South Carolina, the vast majority of collaboration efforts are at the local level.

Although efforts are underway by the SDE to draft such an MOA at the state level, those efforts have yet to be completed. Without greater state level involvement, it is difficult to imagine improving qualifications of staff in local Head Start Programs, and enhancing program standards on a statewide basis.

Of the 15 grantees and delegate agencies responding to the RAP survey, 13 have full-time coordinators. With regard to degrees or licenses held by local disability services coordinators, two staff have early childhood degrees or licenses, one has a special education degree, two have psychology degrees, eight have other degrees or licenses and five have neither a degree or license. The point of the previous discussion on agreements with LEAs and staff credentials is that Head Start programs are striving to serve as competent and qualified resource agencies for the 3-5 year old preschool population with disabilities. The initiatives taken by the program in interagency collaborative efforts, as well as the programs efforts to recruit and/or train qualified personnel stand as strong evidence of the potential of Head Start for this preschool population.

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[2] 1990-1991 Programs Information Report: Disability Services, Region IV Resource Access Project, 300 Eastowne Drive, Chapel Hill, North Carolina 27514

With the Congressional amendments of 1990, the opportunities for partnerships between Head Start programs and the SDE have never been better. Through 1994, two percent of each Head Start annual appropriation is earmarked for training. In addition, Congress committed funds to enhance salaries, improve transportation, add additional staff, obtain insurance, and make facility improvements. For example, each classroom will be required to have at least one teacher with a Child Development Associate Credential (or other appropriate early childhood credential) by 1994.

Additionally, Head Start has earmarked projects for transition services for children entering school, and is authorized by Congress to provide a full day, full year program.

Recommendation 6:

6. **"The Interim Guidelines document needs clarification for districts and parents..."** (An (Assessment p. 50, ¶ 2).

A review of the revised Interim Placement Guidelines reflects appropriate modifications for the 3-5 year old population. These modifications include the addition of observational components and collaboration in addressing assessment of social-emotional maturity level. However, a number of questions still remain. The guidelines require "state department of education certified personnel." The reauthorization of P.L. 99-457 added language to Part B allowing the use of IFSPs for a preschool child with disabilities when consistent with state and local policy and agreed to by the child's family. (See also Tucker, supra). If IFSPs may be used in lieu of IEPs, the use of only SDE certified personnel will create barriers to smooth transition from the early intervention program to the preschool program due to conflicts in evaluation criteria and evaluation staff credentials.

There appears to be continued conflict regarding evaluation data and reciprocity with other agency evaluation staff. Conceivably, in transitioning from one program to another, a child could have two assessments of cognitive ability less than one year a part. Multiple evaluations also affect the availability of tests/assessments appropriate for use with young children. Children cannot be reevaluated with the same instrument in the same year. On the positive side, for preschool children with disabilities, the guidelines offer three (3) alternatives for eligibility for services, providing LEAs with options for placement of a child with a disability. A joint evaluation approach has already been proposed in the transition section of this report.

The Babynet program, (DHEC) has proposed a contract with USC, University Affiliated Program (UAP) to provide consultation to the York County Clinic (a tertiary care clinic) to develop evaluation and assessment clinics for the purpose of identifying and assessing infants and toddlers who are developmentally delayed according to the criteria for P.L. 99-457. Extending this type of clinic to provide evaluations and assessment of 3-5 year olds, with partial funding from the LEAs in the geographical region or use of LEA evaluation and assessment staff, could eliminate certain of the barriers described above. For example, the use of such staff could assist increasing the availability of qualified personnel to complete evaluations, the utilization of the same evaluation staff/protocols for the children, cost efficiency, etc.

Another topic of much discussion and controversy is the definition of preschool children with disabilities. Definition, in turn, determines eligibility criteria and this can become a source of confusion and debate.

Reauthorization language for preschool eligibility amended Section 602(a)(I) to allow, at state discretion, children aged 3-5, inclusive to be found eligible for Part B services if they are--

> (i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
>
> (ii) who, by reason thereof, need special education and related services.

While there should be a simpler, more straight forward method of identifying, evaluating, and placing a preschool child with a disability, the current funding systems do not lend themselves to the approach referenced above. By basing allocation on program model, the EFA funding requires categorization; when the preschool child becomes kindergarten eligible, there must be a "label" attached so that the appropriate weighting for funding can be assigned.

The adoption of the federal eligibility criteria by the SDE would eliminate the need to specifically define each preschool disability and specifically delineate eligibility criteria for each area of disability. There has been continued support for eliminating categorization/labeling of children with disabilities, but potential for such a strategy is limited in this state due to current funding mechanisms.

Recommendation 7:

7. **"Educational responsibility for all 3-5 year old children should remain with the SDE and the local districts..."** (An Assessment, p. 50, ¶ 3).

Since the initiation of allocation of funds for preschool children with disabilities, any agency providing educational services to this population was eligible to receive federal funds. In fact, 13 state operated programs/Head Start Programs received preschool grant monies this current year. Beginning next school year (1992-93), however, preschool funds will be allocated only to local school districts since educational programs are their responsibility.

Recommendation 8:

8. **School districts also need to explore other options for serving preschool children with disabilities in other settings, e.g., providing space in elementary schools and contracting with private day care centers. Also the state statute, licensing requirements and regulations regarding day care need to be reviewed, revised and updated.** (An Assessment, pp 50, ¶ 1)

Although 1991 saw the SDE partnering with at least one large metropolitan child care center to provide a model program for preschool children, SDE efforts to utilize day care settings as an alternative setting have not specifically extended to preschool children with disabilities.

However, efforts have been made by the South Carolina Department of Social Services (DSS) to improve the quality of child care regulations with the proposal of new child care standards including staff qualifications and training. The proposed regulations for centers (13+ children), facilities operated by religious bodies, and family day care homes (up to six children) were approved by the State Budget and Control Board on April 14, 1992, and submitted to the General Assembly for promulgation on April 15, 1992. The proposed regulations for group day care homes (7-12 children) were returned to the DSS for further review. The regulations for group day care homes will be redrafted and resubmitted to the State Budget and Control Board for approval.

A major focus in the proposed child regulations is on staff training and staff qualifications. In the proposed regulations, a center director (13+ children) must meet at least one of the following requirements:

1. A bachelor's degree in child development or early childhood education from an accredited college or institution;
2. A bachelor's degree from an accredited college or institution and at least six months verifiable experience as a caregiver in a licensed/approved child day care facility;
3. An associate degree in child development/early childhood education from an accredited college with two years verifiable experience as a caregiver in a licensed/approved child day care facility;
4. A diploma in child development/early childhood education from an accredited college or institution with two years verifiable experience as a caregiver in a licensed/approved child day care facility;
5. A Child Development Associate Credential;
6. A high school diploma or General Educational Development Certificate (GED), in addition to three years experience as a caregiver in a licensed/approved child day care facility. One of the three years experience shall be in supervision of other child day care staff.

Additionally, the operator and/or director shall participate in at least fifteen clock hours of training within the first calendar year after the effective date of these regulations and at least twenty clock hours within the second calendar year and each year thereafter. At least five clock hours shall be related to program administration and at least five clock hours shall be in child growth and development, early childhood education and/or health and safety. Training hours shall not include first aid and child-infant cardiopulmonary resuscitation training.

All staff, with the exception of emergency person(s) and volunteer(s), providing direct care to the children shall participate in at least ten clock hours of training within the first calendar year after the effective date of these regulations, and at least fifteen clock hours within the second calendar year and each year thereafter. At least five clock hours shall be in child growth and development and at least five clock hours shall be in curriculum activities for children. Training hours shall not include first aid and child-infant cardiopulmonary resuscitation training.

The National Association for the Education of Young Children (NAEYC), which accredits child care programs, requires an associate degree in early childhood education (or child development) or a recognized child development credential, i.e., a CDA (Child Development Associate Certificate). If the proposed child care regulations go into effect, a plan could be developed with collaboration from the SDE whereby centers could meet these credentialing requirements either through inservice or through the provision of special education services for preschool children with disabilities from a certified teacher for a portion of the school day.

One basis for not utilizing Head Start programs to serve 3-5 year preschool children with disabilities has been minimal credentialing requirements for Head Start staff. This may cease to be a significant factor since S.C. Educational Television (SC ETV) has been awarded a three year demonstration grant from the U.S. Department of Health and Human Services to design and develop, produce and deliver training seminars from SC ETV to Head Start teaching teams in areas with priority needs. Priority populations include populations in rural and isolated areas of the United States, and South Carolina is one of thirteen states meeting the priority needs for Head Start programs. The Early Childhood Professional Development Network (ECPDN) located at SC ETV is designed to meet the critical need for Head Start teacher training. The program has been developed primarily for individuals who lack access to available and affordable early childhood training. It is also designed to compliment instruction and support hands-on, supervised field experience. The Child Development Associate (CDA) training model of The Council for Early Childhood Professional Recognition has been used as the foundation for content. A number of day care centers have contacted the ECPDN staff to ask if their staff can participate in the training program.

Due to the availability of federal monies under the Child Care and Development Block Grant Programs through a voucher management system, and due to the clear application of the American with Disabilities Act (ADA) to child care centers, remarkable opportunities exist for the provision of services to preschool children with disabilities through contracts between private child care centers and LEAs. As yet, these opportunities have remained untapped for this population of our state's children.

Examples of innovative approaches in this area do exist. The Human Development Center (Winthrop College), and South Carolina University Affiliated Program (U.S.C.), received Federal funding in 1991 to conduct projects entitled "Child Care Alternatives for Families Who have Children with Special Needs." The goal of these projects is to develop and begin implementation of a statewide system for recruiting, training, and certifying child care providers who are qualified to serve young children with special needs. Coupled with the proposed new standards for child care providers/staff in centers, these projects will potentially provide increased program resources to families with preschool children with disabilities and to LEAs serving those children.

We are also beginning to see the development of other fiscal resources in this area. As of this study's writing, the HHSFC has earmarked $150,000 in federal funding to assist day care providers to accommodate to the needs of handicapped children, and $652,000 in vouchers for serving that population from birth to 19 years of age. According to staff at the HHSFC, there has been no substantial involvement between that agency and the SDE with regard to the utilization of these funds within the P.L. 99-457 context.

In 1988, OSEP ruled that an LEA may use preschool grant funds on a case by case basis to pay day care fees for 3-5 year old children with disabilities who need such a placement to meet their special social or developmental needs, if such a setting is required to satisfy their IEP and provide a FAPE. Bright, 1 ECLPR ¶ 36.

Recommendation 9:

9. **Parents' needs and involvement in their childrens' educational programs should be a priority during implementation of services.** (An Assessment, p. 50 ¶ 4)

The development of the statewide parents organization "Pro Parents" has proven to be a major step forward in parent training and involvement. This private, non-profit organization offers parents of special needs children information and individual assistance through workshops and parent trainers. The organization's involvement on behalf of parents encompasses the requirements of P.L. 94-142 (IDEA), communication between parents and LEAs, the special education evaluation process, and the formation of Individual Education Plans.

SDE efforts at enhanced parental involvement have been largely limited to the regional and statewide hearings previously described in this report. While the enormous effort expended by the SDE to put together four regional meetings (and one statewide meeting) is worthy of recognition, it must be questioned as to whether the outcomes of those hearings actually **facilitated** parental involvement. Anecdotal comments from both child advocates and parents have indicated that some parents feel intimidated at the prospect of expressing honest views in such a public setting. Embarrassment, privacy, and even fear of reprisals may "chill" the willingness of parents to express their sentiments on the quality of educational services being provided. To this end, it would seem that the SDE might consider the utilization of a comprehensive confidential survey targeted at the parents of 3-5 year old handicapped children, or to the parents of younger children in anticipation of transition services.[3]

Additionally, there have been untapped opportunities for federal funding to enhance parental involvement. Applications became available January 14, 1992, for funding under the Fund for the Improvement and Reform of Schools and Teaching Family-School Partnership Program. Approximately $2,500,000 is available for approximately 19 projects to be awarded to local educational agencies that are eligible to receive a grant under the Chapter 1 - Disadvantaged Program.

Projects that provide training for families on the family's educational responsibilities at the preschool level will be given primary consideration for funding. In addition, three invitational priorities have been identified as areas that the Secretary of Education would like to see addressed:

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[3] It is interesting to note that a comprehensive survey was mandated in South Carolina Code Section 59-33-40 at the implementation stage of our state Special Education for Handicapped Children Act. Since 1972, no such comprehensive survey has been required in the implementation of special education services.

- Projects that will increase the involvement of families in improving the educational achievement of children at risk;
- Projects that assist families in their efforts to prepare children at risk to enter school ready to learn;
- Projects that form family-school partnerships designed around the accomplishment of the National Education Goals.

The projects funded under this program are described as opportunities to assist the nation in making progress to meet the first education goal under the President's AMERICA 2000 strategy--every child entering school ready to learn.

As of May 1, 1992, only seven of the 91 School Districts in South Carolina have responded to request consideration for these training grants. These districts are Charleston, Greenwood 50, Lexington One, Richland Two, Calhoun, Sumter 17 and York 4.

Recommendation 10:

10. **Foster parent training should include a module on special education services, accessing the system and the responsibility of the foster parent in the special education process for children in need of or currently receiving these services.** (Appendix p. 51 ¶ 1)

As of this study's writing, no efforts have been initiated by the SDE to the South Carolina Department of Social Services concerning foster parents training. However, the SCDSS has recently agreed to consider including a section on foster parent training at the Fall National Conference on Therapeutic Foster Care (Appendix E).

Recommendation 11:

11. **Personnel development and utilization of preschool grant funds appear to be two areas in which local school districts need technical assistance and guidance from the SDE.** (Appendix p. 51 ¶ 2)

A review of LEA (91) and SOP (13) preschool grant applications indicates that utilization of preschool grant funds have not varied significally from last year. The SDE did restructure its review sheet for grant applications which resulted in improved screening of grant budget expenditures. However, funds continue to be used primarily 1) to maintain salaries or previously established instructional and pupil services positions and 2) to fund new staff positions. With the exception of a few districts, parent involvement, parent training, and inservice activities are minimally addressed in the majority of the grant applications. (In one district, however, over $6,000 has been earmarked for parent inservice training and materials). Contracted services continued to comprise a large portion of the funds. Overall, inservice activities planned for staff serving preschool children with disabilities did not represent very large expenditures in most districts. Several districts did plan for training/certification hours with institutes of higher education. These activities included staff stipends for attending courses and paying professor's travel and per diem to conduct the inservice.

Apparently, the section in the grant application for personnel development was not clearly understood by the school districts. Although the topics designated in the grant application for training were quite broad and vague, several districts did focus on the preschool population. However, some topics designated for inservice training in the grant applications could be provided by OEC personnel, rather than using funds for outside consultants or other agency staff. Some examples of such topics are training on the status of P.L. 99-457, state legislation, and implications for services in South Carolina.

The preschool grant application appears to be primarily a budget request with little if any narrative portion other than the personnel development section. The only means of determining any new program initiatives was to review 1) the column under instructional staff designating positions as new or previously established and 2) the supplies, materials, and equipment sections of the budget.

In reviewing the grant applications, certain expenditures reflected in the 1992 grant applications need clarification/justification. Some examples of such expenditures are:

- purchase of a vehicle for transportation
- maintenance contracts on certain pieces of equipment
- purchase of computers for certain programs
- purchase of a camcorder
- purchase of a copier
- purchase of oil, gasoline, tires for vehicles
- several thousands of dollars for out of State travel for staff
- employment/salary percentage for clerical assistance/due process clerks

The list is more extensive but these limited examples serve the purpose well.

As stated before, several districts have made or proposed appropriate expenditures. For example, a few districts are providing training for bus drivers/bus aides in characteristics/needs of preschool children with disabilities. Other districts specifically planned "child find" efforts and contracted for these services. Another district assessing medicaid uses a portion of funds to pay a billing agency to handle processing. Some districts are using funds to pay tuition in another facility to ensure an appropriate program.

Other issues that arose during the review process pertained to reporting information on the child data sheets for 1) ages/disabilities and 2) program model or budget. In reviewing the data on program models for serving the children, one question that repeatedly surfaced was the appropriateness of serving trainable mentally handicapped (Alternate II) and profoundly mentally handicapped children in an itinerant program. There is no means to determine the reasons for use of this program model based on the data provided. In a number of applications, speech handicapped children were reported as also being served in the itinerant model. Why were these children listed there rather than under the speech program model? In one or two instances, the resource room model had been added by the district as the service model for some of the children. How were these children reported in order to "draw down" Budget Proviso funds? Again, these questions emphasize the need for the LEAs and OEC to maintain comprehensive and accurate data as discussed in Recommendation 2 of this report.

From the grant applications it can be determined that a significant number of districts are still contracting for a large number of related services. In some instances, the number of children and types of disabilities dictate this practice. However, a number of districts designated thousands of dollars (in one instance $20,000) for contracted services where the services were "to be determined." This practice does not reflect planning efforts or projections for services based on the past few years experience or on the use of current data. In one district, 54 speech handicapped children were served and $33,753 was assigned to contract for speech and language services. In such a situation, it would appear to be more cost effective to recruit and employ a speech therapist rather than to purchase these services, especially since this was not a particularly rural area.

Personnel development and recruitment efforts continue to be a problem for local school districts as evidenced by their continued need to purchase services (occupational therapy, physical therapy, etc.) or to contract for services with another agency or neighboring school district. In some instances, the majority of funds expended (and sometimes all the funds) are for contracted services. (One district has chosen to use the total allocation to purchase services). The SDE does not appear to have taken any meaningful action to assist in resolving the shortage of personnel. The 1991 study recommended 1) that technical schools, colleges and institutes of higher education reevaluate recruitment methods, and 2) that the SDE consider the development of a series of certification levels for paraprofessionals. The SDE's leadership in this area is crucial as it is the one agency that can contribute significantly to training institutes' efforts at recruiting since it maintains data on the need and availability of trained personnel.

There has also been no move or impetus to look at curriculum in the schools as related to preschool handicapped children. Although there is no "set" curriculum for use in preschool programs, activities should be developed that are developmentally appropriate and opportunities provided for structured and unstructured as well as interaction in social settings. Research and curriculum specialists agree that learning centers are an excellent approach to working with preschool children. Learning centers can provide various activities at different developmental age levels. This learning center model fits with another approach recommended in this study: It was suggested that a task force be convened to study the possibility of a pilot program to incorporate speech therapy into the regular classroom for minor speech impairments. The task force was to include the SDE curriculum consultants and speech therapists from local school districts. This recommendation has not been addressed.

Recommendation 12:

12. **The Mediation Model for resolution of differences between school districts and parents needs further study. A pilot program would be an excellent vehicle for reducing due process hearings and other litigation.** (Appendix p. 50 ¶ 5)

No substantial efforts toward establishing mediation as a dispute resolution mechanism have been undertaken by the SDE. This issue will be dealt with in a comprehensive section of this report entitled "Analysis of the Use of Mediation...".

Recommendation 13:

13. **With regard to credentialing, the approach South Carolina is to adopt for credentialing teachers is being used in other states. However, the continued shortage of qualified personnel and the small number of recruits graduating from programs in early childhood and preschool special education will cause problems during implementation of P.L. 99-457. Solutions developed by other states need to be explored for possible replication in or adaptation by South Carolina.** (Appendix p. 51 ¶ 3)

As stated before, the lack of adequately trained personnel continues to be a serious barrier to educating 3-5 year old preschool children with disabilities. Teacher training and credentialing is also addressed in this document under Recommendations 8 and 11.

The status of teacher training in preschool special education has changed little since a survey conducted in February, 1990 (See Appendix F). At that time Furman was the only IHE offering a degree in preschool special education. USC offers a Masters in Education in General Special Education with emphasis on preschool handicapped. Six of the IHE's offer 6-15 coursework hours, and two offer an introductory course funded by the SDE. Of the 13 IHEs surveyed, nine stated they would develop an early childhood special education certification track if the SDE developed a certification credential in Early Childhood Special Education. The SDE has not made an effort to develop such a credential.

Qualifications and credentialing requirements vary within those settings providing programs to the preschool population. The problem of personnel development and credentialing of early childhood special education staff involves more than just the issue of credentialing special education. Underpinning the issue of credentialing is the lack of training programs for early childhood specialists/staff. There are no certificate or credential programs (i.e., CDA) in South Carolina. The Technical College System is currently initiating strong efforts to develop a certificate program for early childhood workers. In fact, negotiations are in progress with the National Head Start office to accept a state technical certificate in lieu of the CDA. The problem of acceptance arose when it was pointed out that the SDE is the only certification agency in the state and that the certificate program offered by the technical colleges might be in conflict with SDE requirements. Until such certificate training issues can be resolved for the early childhood worker, early childhood special education certification/training will be placed on a "back burner" until the broader issue is resolved. In turn, the use of paraprofessionals and certifications levels for early childhood workers will be delayed.

Section III - Analysis the Use of Mediation Between Parents and LEAs

Background

There can be little argument that over the last ten years administrative and judicial proceedings under the Individuals with Disabilities Education Act (IDEA) (P.L. 94-142, Part B of the Education of All Handicapped Children's Act) have increasingly involved highly complex issues of fact and law.

As a result, both school districts and parents have come increasingly to utilize expert witnesses in proceedings, and this rather specialized area of education law has come to demand the use of attorneys with experience in the field.

Litigation under the IDEA is quite expensive for both school districts and parents, but the fiscal impact of such disputes appears to fall especially hard upon parents. School districts often have line budgets for legal expenses, and the fear of setting a precedent by relenting to parental demands often fuels those districts' willingness to expend their resources on litigation. Parents, of course, must rely upon their personal resources in the event of a dispute, and the cost of such a dispute can be substantial.

A survey of 1990-1992 expenses for litigation of several due process administrative and judicial proceedings revealed that the average cost of an **administrative** proceeding with one or two expert witnesses and attorney's fees ranged from $5,000 to $8,000. In considering this general figure, remember that school districts naturally **employ** many of their potential experts as teachers, psychologists, etc., while parents often search for and secure the services of an outside expert. Thus, the expense burden to secure experts may fall especially hard on parents. Costs of a judicial proceeding in federal court easily start around $8,000 and quickly accelerate based upon witness fees. It is also important to remember the general rule that parties must "exhaust" their administrative remedies before seeking judicial remedies. This often means that parties to the dispute will ultimately incur costs for **both** types of proceedings. Consequently, the total cost to parents for securing their child's rights through a judicial proceeding can easily surpass $13,000 to $15,000. (The language of Section 20 U.S.C. §1415(e)(4)(B) provides courts with the discretion to award attorneys fees to the **prevailing party** in any action under the Act, including administrative hearings).

Although it is contended here that school districts usually enjoy a strong advantage (due to their budgets and expertise) in choosing to litigate, the burden of litigation can be heavy upon a district as well. Cut-backs in local budgets over the last few years have stimulated districts to be more circumspect in their willingness to litigate. Additionally, district personnel often seem to view the resort to litigation as a failure of the partnership between school and families and often believe the loss of parental good will toward the district to be an impediment to future efforts to educate the child.

Regardless of the perspective one adopts, parent based or school based, it is safe to assume that litigation in the special education arena is costly to both parents and school districts, and should be avoided if possible. However, such an assertion does not alone address the solution to this dilemma. Recently surveyed parents of children who receive P.L. 99-457 services almost universally expressed willingness to pursue administrative litigation as a last resort to protect their child's rights, but also expressed profound concern over the costs. Five school district special education coordinators were also interviewed on this issue, and a common concern expressed was their need as educational professionals to adhere to both legal mandates and resource limitations, especially when the actions toward one child might set a costly precedent in the district's services to other children. In effect, it would seem that both parents and LEAs have much to gain from avoiding litigation until the exhaustion of other alternatives for dispute resolution.

Mediation

Mediation is a voluntary procedure where an impartial third party facilitates the resolution of a dispute between two principals. It is based upon full disclosure of material facts so that the disputants can achieve an equitable agreement. The end product of this process is a written agreement resolving the issues between the two principals (disputants).

The last two years have seen an impressive growth in the viability of mediation as a dispute resolution mechanism in South Carolina. The South Carolina Council for Mediation and Dispute Resolution has trained over 250 professional mediators in this state, and has proposed to develop the Alternative Dispute Resolution Center as a pilot project for the Charleston-Berkeley-Dorchester county area, and the Neighborhood Legal Assistance Mediation Project in Charleston county. The stated goals of the South Carolina Council are:

1. To continue to provide the public with an alternative to costly legal procedures;
2. To improve the administration of justice by reducing caseloads of the family courts, civil and magistrate courts;
3. To provide mediation education and training to professionals and the public; and,
4. To continue to develop an organizational structure which insures the quality of mediators throughout the State.

The Council presents an impressive opportunity for the educational community to consider a joint venture in introducing mediation into the educational system. The possibilities of mediation have not escaped both our judiciary and our legislative branches, and the time is now ripe to expand mediation efforts into the education arena. The National Council of Family and Juvenile Court Judges recommended at its 1991 South Carolina Families in Court Symposium that mediation be pursued as an alternative to dispute resolution. As if in response to this recommendation and to the efforts of statewide advocates, Senate Bill 1253 has been favorably reported out of Committee with amendments by both the House and Senate. This bill amends the jurisdiction of the Family Court to provide for the use of mediation, and its favorable treatment is evidence of an upswing in acceptance for the use of mediation as an alternative to litigation.

South Carolina is not alone in turning its attention toward mediation. California, Florida and Minnesota all have begun serious efforts to apply mediation in an effort to avoid special education litigation. In California, the provisions of a bill allow parents or school district personnel to request mediation before filing for a due process hearing. Current California state education procedures allow for use of mediation, but only after filing for a hearing. In 1991, 611 cases in California went to a mediator and 595 were settled without trial. The proposed California bill would expand mediation as an available alternative during the IEP process, and would create grants to fund three year mediation pilot projects in local schools.

In Florida, training sessions are underway to teach special education advocates mediation skills and the State Department of Education has set up a $200.00 fee to be paid to the mediators if the local school districts will cover their travel costs.

In Minnesota, the State's Special Education Office is training lawyers and retired members of the judiciary to work as mediators in special education. Administrative procedures in Connecticut, Massachusetts, Illinois and North Carolina are also utilizing mediators in special education cases.

In 1991, OSEP ruled that under Reg. 300.370(b)(2), mediation may be considered a support service for the purpose of implementing the Part B requirements. Accordingly, expenditures from the SDE's discretionary fund is permissible under Part B. Pearson, 1 **Early Childhood Law and Policy Report,** ¶ 165. (Appendix G).

In considering the use of mediation in the birth to five population, it is important to note that proposed Rule 34 CFR Section 303.420 provides for administrative resolution of individual child complaints by an impartial hearing officer, tracking the requirements for the school aged population under P.L. 94-142. In comments to the proposed rule the Secretary has noted:

> It is important that the administrative procedures developed by a State be designed to result in speedy resolution of complaints. An infant's or toddler's development is so rapid that undue delay could be potentially harmful.
>
> In an effort to facilitate resolution, States may wish, with parental concurrence, to offer mediation as an intervening step prior to implementing the procedures in this section. Although mediation is not required under either Part B or Part H. of the Act, some States have reported that mediation conducted under Part B have led to speedy resolution of difference between parents and agencies, without the development of an adversarial relationship and with minimal emotional stress to parents.

Federal requirements for Part H of the Individuals with Disabilities Education Act currently requires the state to have in place a system of procedural safeguards for the birth through five population. The birth to three population is currently covered under an agreement which is being redrafted by DHEC and the other supporting agencies. This agreement tracks federal procedural requirements found in Section 680 (Appendix G). The proposed agreement additionally adds mediation as a voluntary step available to parents. As of this study's writing, there have been no cases mediated under this agreement. (However, personnel at the DHEC widely admit that information about the dispute procedures have not been widely disseminated to parents, a problem to which they intend to address considerable effort in the upcoming year). On January 21, 1992 the SDE formally notified LEAs that **all** procedural safeguards recognized under the Individuals with Disabilities Education Act (formerly P.L. 94-142) attached to the three to five population (Appendix B).

Implementing Mediation

If one reviews the legislative history of efforts over the last five years to pass various bills intended to implement mediation in the area of domestic law, it is quickly apparent that many of the objections voiced by opponents have been based upon questions regarding standards of practice and qualifications for mediators. Any effort to utilize mediation in the special education setting should recognize the importance of such concerns and should sincerely attempt to address issues of qualification, training and practice.

With the total number of due process appeals to the SDE under Individuals with Disabilities Education Act running about six per year for the last two years, it is doubtful that offering mediation on a statewide basis would pose an onerous burden to the SDE. (However, it is useful to note that the numbers of children utilizing mediation could readily grow, as the SDE has not surveyed districts for numbers of disputes that **do not** go to due process hearings, or for those disputes that go to due process but are not taken up to the SDE level on appeal). Moreover, it is unnecessary for the SDE to "reinvent the wheel" in implementing mediation, as the experience base of the South Carolina Council for Mediation and Dispute Resolution is enormous (Appendix G). A partnership between the SDE, the Council, and Pro Parents could provide a powerful start in developing alternatives to litigation. Recent communications by the Joint Legislative Committee in Children with both the Council and Pro Parents have indicated a strong interest in this area, and the possibility for the SDE to initiate a cooperative venture seems very favorable.

In reviewing the implementation strategies of other states, several common themes arise which should form the basis of any effort to use mediation within the area of special education:

1. Mediation should be readily available during the development of the IFSP and IEP where disputes arise. To limit mediation as an alternative only when a due process hearing has been requested is to substantially undermine its possibilities for **conflict resolution**. Although at least one state (California) has opined that statutory changes are necessary to achieve "pre-hearing" use of mediation, no limitation exists in federal law for its use (other than described within this section), and no South Carolina statute would require amendment to allow for its "pre-hearing" use. Furthermore, OSEP in 1990 indicated that "parent counseling and training" is defined as a related service and may be offered in the IEPs of eligible 3-5 year old children if it assists them in deriving a benefit from special education. See 34 CFR 300.13(b)(6), 300.370(b)(2), and Tucker, 1 Early **Childhood Law and Policy Reporter**, ¶ 67. With such services available through the IEP, combined with mediation, some of the transition issues previously discussed in this study might be alleviated.

2. The process of mediation must offer the child a speedy resolution to the complaint, and its use must be voluntary on the part of parents:

> While a State may elect to adopt a mediation process, the State cannot require that parents use the process. Mediation may not be used to deny or delay a parent's rights under this part. The complaints must be resolved, and a written decision made, within the 30-day timelines in § 303.423.
> **(Comments to proposed Rule 303,420, 34 CFR part 303, Note 2)**

3. Although qualifications for mediators have been previously mentioned, the importance of impartial and trained individuals serving in this capacity cannot be overemphasized. The

state would do well to avoid the weakened requirements for mediators that characterize its due process hearing officers (see discussion in Section IV of this study).

4. The SDE must explore funding mechanisms such as Part B Discretionary Funds in order to facilitate the acceptance of mediation at the LEA level. Otherwise, it has been the experience of at least two other states (Florida and Minnesota) that local districts are hesitant to accept mediation as anything other than yet another unfunded burden.

In summary, mediation should--as recommended in this same study for 1991--be seriously pursued as an alternative to special education litigation, and--moreover, should be pursued as a mechanism for averting conflict and improving the delivery of services for children and their families.

Section IV - Summary of Current Legal Issues

1. The Proviso: South Carolina appears to be the only state which has chosen to implement its P.L. 99-457 program through Budget Proviso. The Proviso states:

> The average amount per child served in the speech model must be $125 and an average amount per child served under the three other service models must be **$900 to the extent possible within the funds appropriated under VII.** Direct Aid School District, P.L. 99-457.
>
> **Section 28.38, 1992, emphasis supplied**

OSEP has ruled that if a state limits by law the entitlement to a free and appropriate public education for 3-5 year old children with disabilities to fiscal years when sufficient funds are appropriated, then the state must always appropriate sufficient funds to provide FAPE to this age group in order to comply with the requirements of the federal mandate. See HARRIS, 1 ECLPR ¶ 123. Assuming the reenactment of the Proviso for each budget year, and assuming that the funding limitations are not judicially determined to impair the provision of Free Appropriated Public Education (FAPE) to a child or any class of children, the Budget Proviso may remain one alternative to permanent legislation. However, there is no guarantee that the Office of Special Education Rehabilitation Services (OSERS) would continue to accept the Proviso, especially if legal challenges arise on the sufficiency of services to eligible children based on funding allocations. Furthermore, one must seriously consider the implications of the proviso to programs and planning, especially when its existence is viewed by many as demonstrating a lack of commitment by the General Assembly to ensure the continued viability of these programs.

2. Third Party Payment: The use of third party payment to cover the costs of related services presents both beneficial possibilities and potential problems for LEAs. In 1990 the Office of Civil Rights (OCR) completed an investigation against two Illinois corporations based upon allegations that their practices in utilizing medicaid and private insurance sources violated Section 504 of the Rehabilitation Act. See SMA and TAMES, 16 EHLR 963. In the OCR decision, five areas were identified where there is potential for **financial loss to parents** through the use of health insurance benefits: 1) depletion of lifetime coverage, 2) depletion of annual or service coverage, 3) jeopardizing future insurability, 4) increases in premiums and 5) discontinuance of health insurance benefits. Use of third party payment to pay for related services where such use creates **loss** for the family, is **not permitted.**

In seeking to use third party payment, school districts must be aware of lifetime caps and request that families examine their policies to determine limits on coverage. The United States Court of Appeals has recently noted that a mentally handicapped woman could sue to recover insurance funds that are paid to a residential facility for care that should have been paid by the school district. Shook v. Gaston Co. Bd. of Education, 882 F2d 119 (4th Cir 1989), cert. denied 58 U.S.L.W. 3528 (1990).

As to reasons why families might wish to consider the use of such benefits to subsidize the related services of a child:

> It is advantageous to families to allow the district to access their insurance because the district is then responsible for co-insurance and deductibles the families would normally incur. From **Third Party Payment for Funding Special Education and Related Services**; Robert A. Kreb, **LRP Publications**, at 2:4.

One frequent source of tension and disagreement between parents and LEAs involves the question of when a related service must be provided (at no expense to the parent) in order for the child to receive educational benefit from the program, and when such a service is essentially "medical" in character and is not required to be provided to the child by the LEA at its expense.

However, this debate **need not** arise in many cases involving the use of health insurance. For example, in Medicaid, when a related service meets the definition of medical necessity and is included on the child's IEP, any debate on the "character" of the service is moot. In other non-medicaid circumstances, if the services are included on the child's IEP, and if the services also meet the payors definition of medical necessity (and the school is a payor approved provider), there is no need to categorize between "medical" and "related services". However, some caution is warranted here, as the third circuit has held that § 20 U.S.C. §1400 e. seq. (EAHCA) allowed companies offering medical or hospital services to **exclude coverage** for services provided free under the EAHCA. **Chester County Intermediate Unit** v. **Pennsylvania Blue Shield**, 896 F2d 808 (3rd. Cir. 1990).

A review of South Carolina's current medicaid procedures[4] and the SDE's procedures for third party payment of related services reveals no **documented** clarification of limits on use of third party payment, or clarification as to the information which must be provided to parents concerning the scope of coverage or potential loss of benefits.

In the TAMES decision previously referenced, the OCR did not order discontinuation of the use of medicaid and other third party insurers, but rather **required the provision of adequate notification to parents regarding the proper use of their health insurance** on all issues that might affect their decision to access the benefits, including any potential loss which might be incurred.

The SDE might also wish to consider a general cautionary memorandum to LEAs regarding the use of third party payment to ensure that services are not delayed or withheld based upon availability of reimbursement. See U.S. Department of Education policy letter to

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[4] Medicaid Billing Handbook for Local Education Agenices (DRAFT)

John Conway, 1986-87 EHLR 211:438. Likewise, availability of services should not **inflate** the use of those services on the child's IEP. The Medicare Catastrophic Health Care Act specifically indicates that needed services must be outlined on a child's IEP. Federal law mandates that the IEP be the driving force within the special education system. The IEP, of course, is to be based upon the educational needs of the child, not availability of services.

3. Due Process: A review of all SDE P.L. 94-142 (IDEA) appeals over the last two years has indicated the following number of appeals on the referenced issues:

1. Related Services - 1 appeal
2. Procedural violations - 2 appeals
3. Discipline/Expulsion - 1 appeal
4. Least Restrictive Environment - 1 appeal
5. Placement (in-school) - 2 appeals
6. Placement (residential) - 1 appeal
7. 12 month program - 1 appeal

In a letter dated January 21, 1992, Luther W. Seabrook of the SDE has advised the LEAs of the application of all P.L. 94-142 (IDEA) procedural safeguards and other P.L. 94-142 (IDEA) requirements to preschool children with disabilities (Appendix B). As of this study's writing, no due process hearing requests or SEA appeals have occurred on a P.L. 99-457 issue.

When one considers the substantial authority and responsibility placed on the hearing officer and the complexity of special education law, it becomes evident that qualifications and training for this individual should be of paramount concern. Yet, a review of State Board of Education Regulations 43-243 VI indicates **substantively weak** requirements for both qualifications and training (Appendix H). It is somewhat remarkable that a college degree is not required of an LEA hearing officer, and that no prohibitions exist as to **former** school district employees. It is also notable that the regulations do not specify the frequency and scope of training to be provided by the SDE. Presently, the SDE provides initial training for prospective hearing officers, but provides no mandatory training after the hearing officer's initial training.

4. **Transition:** In reviewing the legal issues surrounding transition, reference is made to Part II of this study for its discussion of the IFSP continuing beyond the three year birthday, and of the Department of Health and Environmental Control-State Department of Education MOA's compliance with federal requirements.

One major remaining legal issue which has not been previously discussed is the vesting right of a three year old to LEA services and the response of the state to that right. In 1991, OSEP issued its decision in **Neveldine**, where the delay in serving a three year old due to recess of school was considered:

> In order for a state to receive a Preschool Grant, children with disabilities must be guaranteed FAPE upon their third birthdays. Because the state law provision in questions establishes a timeframe from April 2 through August 31 during which three-year-old children with disabilities are potentially ineligible for preschool programs and services, the state educational to clarify the procedures for ensuring the provision of FAPE to all eligible children who turn three years of age within the five-month timeframe. **Neveldine**, 1 ECLPR ¶ 124.

No reference exists in the Department of Health and Environmental Control-State Department of Education MOA as to how such a potential lapse in service is to be handled. This "void" presents an enormous opportunity for the creation of partnerships between the involved agencies to ensure the provision of summer services, yet also presents potential for liability if procedures are not clarified. Addressing this particular issue should be a major priority during the upcoming year.

> **5. Extended School Year:**
>
> The Act does not specifically refer to an "extended school year", and the concept has developed through judicial decisions in cases holding that the traditional 180-day school year could not be inflexibly applied where a handicapped child would regress over a summer to such an extent that it would be difficult to recoup the loss. **Armstrong v. Kline**, 476 F.Supp. 583, (E.D. Pa. 1979). However, under the regression-recoupment analysis it is necessary to prevent significant regression in skills and knowledge retained by the child so as to seriously affect his or her progress toward self-sufficiency or if the absence of a summer program will significantly jeopardize the benefits obtained during the regular school year. **Rettig v. Kent City School Dist.**, 539 F.Supp. 768 (N.D. Ohio, E.D. 1981); **Also Heights Independent School District v. State Board of Education**, (supra), 790 F.2d 1153 (5th Cir. 1986); **Bales v. Clark**, 523 F.Supp. 1366 (E.D. Va. 1981).[5]

The proceeding section of the **Roberts** order adequately describes the legal basis for extended school year for students under P.L. 94-142 (IDEA). Although somewhat complicated by the issue of a child's vesting rights for LEA services on the third birthday, the question of extended school year for a 3-5 year old with disabilities requires the same essential analysis presented above.

However, given the substantive analysis applied to the facts in **Roberts**, it would seem the precedent for our circuit has been established that a child whose regression is primarily based upon a "progressively degenerative impairment" does not necessarily qualify for extended school year.

The issue of year round programs is of exceptional importance to 3-5 year olds with disabilities, due to the speed of a toddler's development and the necessity of consistency and reinforcement across time. **Somerville Board of Education, 1 ECLPR 91, Harwick Public Schools, 1 ECLPR ¶ 95, Monroe Township Board of Education, 1 ECLRP ¶ 89.**

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[5] **Decision and Order of John Roberts v. Newberry Co. School District**, p. 14 of order.

The hope for progress in this area may not be in legal challenges, but rather in the results of the Extended School Year Pilot Project (Appendix H). The program and procedures established through this pilot project represent a substantial step forward toward formally recognizing the necessity of extended school year programs for qualified children with disabilities. However, the project presently fails to clearly address the availability of these pilot project services to those children who qualify for P.L. 99-457 services.

Section V - Strategic Planning Process and Recommendations

The enormity of the task of implementing P.L. 99-457 for the 3-5 year old preschool population with disabilities requires a comprehensive, planned approach which embraces the many professionals, consumers and agencies who are involved in the provision of these services. The information gathered during this study has reinforced the conviction of its authors that without the guidance of a long-term strategic plan, these services will never reach their maximum potential. Consequently, without such a plan for the overall implementation of these services, it is the belief of the authors that consumer children, their families, and our state will ultimately suffer.

South Carolina has had over three years to begin such a planning process, yet as of this study's writing, there is no strong commitment or progress in developing in such a plan.

These issues do not require further study--one can readily see from a review of this study's 1991 recommendations that implementation is the present issue. For this reason, the following recommendation are made:

I. **It is recommended that permanent state legislation be implemented under the mandates of P.L. 99-457, and that the legislation describe in detail the responsibilities of the SDE with regard to 1) the provision of guidance and supervision to the LEA's on the implementation of P.L. 99-457, 2) the development of a comprehensive strategic plan for the delivery of these services, 3) the provision of smooth transition services which minimize barriers to children and 4) the development of eligibility criteria through the promulgation of regulations.**

II. It is recommended that a budget proviso be developed for the 1993 SDE budget, and that the proviso require the creation of a planning committee to oversee the implementation of a comprehensive plan for the service delivery of P.L. 99-457 for the 3-5 population. The membership of this committee should be appointed in whatever manner the General Assembly deems appropriate, but it is strongly recommended that the Committee be comprised of the following representatives:

One person representing the House of Representative's Education Committee
One person representing the Senate's Education Committee
One person representing the HHSFC
One person representing Head Start Program
One person representing the DSS Day Care Licensing Unit
Two persons representing the LEAs Special Education Programs
Two persons representing the SDE - (one from Finance, one from program)
One person representing Pro Parents
One person representing Babynet/DHEC
Two persons representing parents of a child qualifying for P.L. 99-457 services
One person representing S.C. Protection and Advocacy System for the Handicapped, Inc.
One person representing the DMR
Two persons representing teacher training programs (IHE and State Technical College System)

The Committee should have one year to develop an implementation plan which should be submitted by the SDE to the General Assembly along with a certification of the SDE's concurrence and timetables for implementation.

The SDE should be required to set aside funding from preschool grant monies to provide space and staffing for the committee's work; and this staff should include a full-time project director, as well as adequate clerical support.

In order to ensure objectivity and impartiality in its approach, the project director for the committee should report directly to the Senate and House Education Committees.

Additionally, it is strongly urged that the Committee consider and address the following issues in its planning process:

1. The development of a budget plan for services, supported by a database which tracks dollars from allocation by the SDE to service delivery in the local schools.
2. The development of a **policy** regarding the use of preschool grants, and a list of priorities for funding and expenditure guidelines to facilitate implementation of that policy.
3. The development of a comprehensive plan for coordinating efforts at securing federal grants available to the LEAs and the SDE to enhance the delivery of these services.
4. An extensive revision of the MOA between DHEC and SDE to address the "Transition" recommendations provided in this study, with strong emphasis on parental involvement.
5. The establishment of a single ICC.
6. The establishment of a MOA between the SEA and GLEAAMS for Head Start, and a plan for the utilization of Head Start services in the P.L. 99-457 context.
7. The development of regional consortia to address deficits in LEAs ability to provide "related services".

8. Enhanced regional training for LEAs on program implementation as described in this study.
9. The development of a joint plan between HHSFC and SDE for maximizing use of available day care dollars for P.L. 99-457 population.
10. The development of a plan and a funding mechanism to ensure that parental training and involvement is maximized.
11. The development of mediation as a model for dispute resolution.
12. The development of a plan to create a certification credential in Early Childhood Special Education.

Reference Terms/Abbreviations

ADM: Average Daily Membership

Babynet: Part H of IDEA to serve birth through 2 year old infant and toddlers with disabilities

CDA: Child Development Associate

CRS: Children's Rehabilitative Services

CCRS: Children's Case Resolution System

DHEC: South Carolina Department of Health and Environmental Control

DMR: South Carolina Department of Mental Retardation

DSS: South Carolina Department of Social Services

ECPLR: Early Childhood Public Law Reporter

EFA: Education Finance Act

EM: Emotionally Handicapped

FAPE: Free Appropriated Public Education

HH: Hearing Handicapped

HHSFC: South Carolina Health and Human Services Finance Commission

HO: Homebound

ICC: Interagency Coordinating Council

IDEA: Individuals with Disabilities Education Act

IEP: Individual Education Plan

IFSP: Individual Family Service Plan

IHE: Institute of Higher Education

K: Kindergarten

LD: Learning Disability

LEA: Local Education Agency

LRE: Least Restrictive Environment

MOA: Memorandum of Agreement

ODJ: Adjustment

OEC: Office of Exceptional Children

OH: Orthopedically Handicapped

OSEP: Office of Special Education Programs

OSERS: Office of Special Education Rehabilitation Services

PEA: Programs for Exceptional Children

P.L.: Public Law

SDE: South Carolina Department of Education

SEA: Special Education Act

SOP: State Operated Programs

SP: Speech Handicapped

TMH: Trainable Mentally Handicapped

WT: Weighting

References

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Placement Criteria For Preschool Children with Disabilities (Revised, February 1992), Draft, South Carolina Department of Education, Office of Exceptional Children, Columbia, SC.

Kahn, Kenneth F., Maroldo, Robert A., et., **Early Childhood Law and Policy Reporter**, LRP Publications, Horsham, Pennsylvania, 1991.

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1990-1991 Program Information Report: Disability Services, Region IV Resource Access Project, 800 Eastowne Drive, Chapel Hill, NC.

The Status of Handicapped Children in Head Start Programs, Sixteenth Annual Report of the US Department of Health and Human Services to the Congress of the United States on Services Provided to Children with Disabilities in the Head Start Program, 1991.

APPENDIX A

OEC Data

1) December 1, 1992
2) Federal Allocations

Appendix A

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
PROGRAMS

PART II

Page 1 of 5

OMB NO.:

FORM EXPIRES:

REPORT OF CHILDREN AND YOUTH WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT

December 1, 1991

STATE: South Carolina

SECTION A			
COUNT DATE:	MONTH December	DAY One	YEAR 1991

SECTION B				
NUMBER OF CHILDREN RECEIVING SPECIAL EDUCATION				
AGE AS OF DECEMBER 1, 1991	3	4	5	3-5 (Actual Data)
ALL DISABILITIES	796	2,651	5,224	8,671

ED FORM: 869-5

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
PROGRAMS

PART II

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OMB NO.:

FORM EXPIRES:

REPORT OF CHILDREN AND YOUTH WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT

December 1, 1991

STATE: South Carolina

SECTION C

NUMBER OF CHILDREN AND YOUTH RECEIVING SPECIAL EDUCATION

DISABILITY / AGE AS OF DECEMBER 1	6	7	8	9	10	11	6-11 (Actual Data)
MENTAL RETARDATION	526	724	878	979	1,067	1,157	5,331
HEARING IMPAIRMENTS	60	70	67	82	93	85	457
SPEECH OR LANGUAGE IMPAIRMENTS	5,435	4,657	3,316	2,120	1,355	801	17,684
VISUAL IMPAIRMENTS	13	30	34	36	28	32	173
SERIOUS EMOTIONAL DISTURBANCE	71	148	272	421	517	588	2,017
ORTHOPEDIC IMPAIRMENTS	70	72	78	60	56	63	399
OTHER HEALTH IMPAIRMENTS	6	14	11	8	15	9	63
SPECIFIC LEARNING DISABILITIES	260	1,200	2,412	3,040	3,393	3,465	13,770
DEAF-BLINDNESS	-0-	-0-	1	1	-0-	1	3
MULTIPLE DISABILITIES	14	14	23	32	22	23	128
AUTISM	10	13	13	11	6	5	58
TRAUMATIC BRAIN INJURY	-0-	1	-0-	-0-	-0-	1	2
TOTAL (Sum of all of the above)	6,465	6,943	7,105	6,790	6,552	6,230	40,085

ED FORM: 869-5

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
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OMB NO.:

FORM EXPIRES:

REPORT OF CHILDREN AND YOUTH WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT

December 1, 1991

STATE: South Carolina

SECTION C (continued) NUMBER OF CHILDREN AND YOUTH RECEIVING SPECIAL EDUCATION

DISABILITY / AGE AS OF DECEMBER 1	12	13	14	15	16	17	12-17 (Actual Data)
MENTAL RETARDATION	1,161	1,192	1,234	1,066	1,102	986	6,741
HEARING IMPAIRMENTS	76	59	57	43	43	46	324
SPEECH OR LANGUAGE IMPAIRMENTS	417	229	134	92	70	50	992
VISUAL IMPAIRMENTS	24	20	28	17	24	17	130
SERIOUS EMOTIONAL DISTURBANCE	581	610	651	530	430	227	3,029
ORTHOPEDIC IMPAIRMENTS	48	48	46	44	49	37	272
OTHER HEALTH IMPAIRMENTS	11	6	6	5	6	8	42
SPECIFIC LEARNING DISABILITIES	3,432	3,129	2,960	2,423	1,897	1,372	15,213
DEAF-BLINDNESS	1	-0-	-0-	-0-	-0-	1	2
MULTIPLE DISABILITIES	23	18	17	13	10	18	99
AUTISM	9	2	6	8	7	8	40
TRAUMATIC BRAIN INJURY	-0-	2	-0-	-0-	1	2	5
TOTAL (Sum of all of the above)	5,783	5,315	5,139	4,241	3,639	2,772	26,889

ED FORM: 869-5

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
PROGRAMS

PART II

OMB NO.:

FORM EXPIRES:

REPORT OF CHILDREN AND YOUTH WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT

December 1, 1991

STATE: South Carolina

SECTION C (continued) NUMBER OF CHILDREN AND YOUTH RECEIVING SPECIAL EDUCATION

DISABILITY / AGE AS OF DECEMBER 1	18	19	20	21	18-21 (Actual Data)	6-21 (Actual Data)	22+	6-22+ (Actual Data)
MENTAL RETARDATION	795	405	251	47	1,498	13,570	-0-	13,570
HEARING IMPAIRMENTS	22	11	4	-0-	37	818	-0-	818
SPEECH OR LANGUAGE IMPAIRMENTS	28	5	-0-	1	34	18,710	-0-	18,710
VISUAL IMPAIRMENTS	10	7	-0-	1	18	321	-0-	321
SERIOUS EMOTIONAL DISTURBANCE	96	28	11	-0-	135	5,181	-0-	5,181
ORTHOPEDIC IMPAIRMENTS	33	20	7	3	63	734	-0-	734
OTHER HEALTH IMPAIRMENTS	3	1	1	-0-	5	110	-0-	110
SPECIFIC LEARNING DISABILITIES	831	291	54	11	1,187	30,170	-0-	30,170
DEAF-BLINDNESS	-0-	-0-	-0-	-0-	-0-	5	-0-	5
MULTIPLE DISABILITIES	7	9	7	6	29	256	-0-	256
AUTISM	5	7	5	-0-	17	115	-0-	115
TRAUMATIC BRAIN INJURY	-0-	-0-	-0-	-0-	-0-	7	-0-	7
TOTAL (Sum of all of the above)	1,830	784	340	69	3,023	69,997	-0-	69,997

ED FORM: 869-5

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U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
AND REHABILITATIVE SERVICES
OFFICE OF SPECIAL EDUCATION
PROGRAMS

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PART II

OMB NO.:

REPORT OF CHILDREN AND YOUTH WITH DISABILITIES RECEIVING SPECIAL EDUCATION
PART B, INDIVIDUALS WITH DISABILITIES EDUCATION ACT

FORM EXPIRES:

December 1, 1991

REPORT DUE NO LATER THAN FEBRUARY 1

STATE: South Carolina

SECTION D - CERTIFICATION

I CERTIFY that these data represent an accurate and unduplicated count of children and youth with disabilities receiving special education and related services on December 1, according to an Individual Education Program.

AUTHORIZING OFFICIAL

1. NAME AND TITLE	2. SIGNATURE	3. DATE OF SIGNATURE
Barbara S. Nielson State Superintendent	Barbara S Nielson	1-31-92

No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by 20 U.S.C. 1411(a)(3); 1411a(5)(A)(ii); 1418(b); 1419.

ED FORM: 869-5

FY 92 Preschool Grant Allocation
February 13, 1992

District	92 Alloc.
Abbeville County School District	$ 125,097
Aiken County School District	$ 57,370
Allendale County School District	$ 28,685
Anderson School District 1	$ 29,482
Anderson School District 2	$ 18,326
Anderson School District 3	$ 64,541
Anderson School District 4	$ 16,733
Anderson School District 5	$ 36,653
Bamberg School District 1	$ 46,214
Bamberg School District 2	$ 8,765
Barnwell School District 19	$ 21,514
Barnwell School District 29	$ 27,091
Barnwell School District 45	$ 43,027
Beaufort County School District	$ 61,354
Berkeley County School District	$ 190,435
Calhoun County School District	$ 89,241
Charleston County School District	$ 168,921
Cherokee County School District	$ 17,530
Chester County School District	$ 80,477
Chesterfield County School District	$ 23,107
Clarendon School District 1	$ 19,123
Clarendon School District 2	$ 29,482
Clarendon School District 3	$ 3,984
Colleton County School District	$ 33,466
Darlington County School District	$ 72,509
Dillon School District 1	$ 15,139
Dillon School District 2	$ 25,498
Dillon School District 3	$ 38,246
Dorchester School District 2	$ 73,305

FY 92 Preschool Grant Allocation
February 13, 1992

District	92 Alloc.
Dorchester School District 4	$ 22,310
Edgefield County School District	$ 51,792
Fairfield County School District	$ 55,776
Florence School District 1	$ 81,273
Florence School District 2	$ 11,155
Florence School District 3	$ 58,963
Florence School District 4	$ 31,872
Florence School District 5	$ 6,374
Georgetown County School District	$ 89,241
Greenville County School District	$ 340,233
Greenwood School District 50	$ 63,744
Greenwood School District 51	$ 17,530
Greenwood School District 52	$ 37,450
Hampton School District 1	$ 10,358
Hampton School District 2	$ 39,840
Horry County School District	$ 138,643
Jasper County School District	$ 78,086
Kershaw County School District	$ 74,102
Lancaster County School District	$ 74,899
Laurens School District 55	$ 126,691
Laurens School District 56	$ 65,337
Lee County School District	$ 81,273
Lexington School District 1	$ 86,851
Lexington School District 2	$ 113,942
Lexington School District 3	$ 14,342
Lexington School District 4	$ 30,278
Lexington School District 5	$ 56,573
Marion School District 1	$ 41,434
Marion School District 2	$ 35,059

FY 92 Preschool Grant Allocation
February 13, 1992

District	92 Alloc.
Marion School District 3	$ 13,546
Marion School District 4	$ 9,562
Marlboro County School District	$ 17,530
McCormick County School District	$ 35,856
Newberry County School District	$ 83,664
Oconee County School District	$ 54,979
Orangeburg School District 1	$ 14,342
Orangeburg School District 2	$ 30,278
Orangeburg School District 3	$ 66,931
Orangeburg School District 4	$ 37,450
Orangeburg School District 5	$ 66,134
Orangeburg School District 6	$ 15,139
Orangeburg School District 7	$ 42,230
Orangeburg School District 8	$ 29,482
Pickens County School District	$ 65,337
Richland School District 1	$ 163,344
Richland School District 2	$ 125,097
Saluda County School District	$ 104,381
Spartanburg School District 1	$ 29,482
Spartanburg School District 2	$ 50,198
Spartanburg School District 3	$ 33,466
Spartanburg School District 4	$ 11,155
Spartanburg School District 5	$ 36,653
Spartanburg School District 6	$ 67,728
Spartanburg School District 7	$ 87,648
Sumter School District 02	$ 36,653
Sumter School District 17	$ 172,109
Union County School District	$ 109,958
Williamsburg County School District	$ 51,792

FY 92 Preschool Grant Allocation
February 13, 1992

District	92 Alloc.
York School District 1	$ 27,091
York School District 2	$ 18,326
York School District 3	$ 108,365
York School District 4	$ 16,733
Total:	$ 5,233,375

FY 1992 P. L. 94-142 Allocation
Feb 13, 1992

Dist	92 Allocation
Abbeville County School District	$226,192
Aiken County School District	$882,606
Allendale County School District	$139,077
Anderson School District 1	$255,230
Anderson School District 2	$155,889
Anderson School District 3	$115,388
Anderson School District 4	$115,388
Anderson School District 5	$393,925
Bamberg School District 1	$125,705
Bamberg School District 2	$96,284
Barnwell School District 19	$81,383
Barnwell School District 29	$61,897
Barnwell School District 45	$149,394
Beaufort County School District	$524,597
Berkeley County School District	$851,276
Calhoun County School District	$175,757
Charleston County School District	$2,006,689
Cherokee County School District	$343,491
Chester County School District	$379,788
Chesterfield County School District	$246,824
Clarendon School District 1	$100,105
Clarendon School District 2	$152,450
Clarendon School District 3	$59,987
Colleton County School District	$315,981
Darlington County School District	$528,036
Dillon School District 1	$50,435
Dillon School District 2	$165,059
Dillon School District 3	$78,327
Dorchester School District 2	$448,181

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FY 1992 P. L. 94-142 Allocation
Feb 13, 1992

Dist	92 Allocation
Dorchester School District 4	$123,412
Edgefield County School District	$192,951
Fairfield County School District	$224,663
Florence School District 1	$588,404
Florence School District 2	$68,010
Florence School District 3	$245,678
Florence School District 4	$109,657
Florence School District 5	$57,694
Georgetown County School District	$528,036
Greenville County School District	$2,537,399
Greenwood School District 50	$400,038
Greenwood School District 51	$49,670
Greenwood School District 52	$67,628
Hampton School District 1	$75,652
Hampton School District 2	$109,657
Horry County School District	$1,268,126
Jasper County School District	$169,644
Kershaw County School District	$411,883
Lancaster County School District	$393,543
Laurens School District 55	$285,796
Laurens School District 56	$218,932
Lee County School District	$178,432
Lexington School District 1	$486,771
Lexington School District 2	$475,308
Lexington School District 3	$94,374
Lexington School District 4	$84,440
Lexington School District 5	$402,331
Marion School District 1	$174,611
Marion School District 2	$124,558

FY 1992 P. L. 94-142 Allocation
Feb 13, 1992

Dist	92 Allocation
Marion School District 3	$42,029
Marion School District 4	$29,420
Marlboro County School District	$228,866
McCormick County School District	$80,619
Newberry County School District	$324,004
Oconee County School District	$491,738
Orangeburg School District 1	$68,392
Orangeburg School District 2	$57,694
Orangeburg School District 3	$207,470
Orangeburg School District 4	$86,350
Orangeburg School District 5	$348,458
Orangeburg School District 6	$66,100
Orangeburg School District 7	$104,690
Orangeburg School District 8	$63,043
Pickens County School District	$583,437
Richland School District 1	$1,259,721
Richland School District 2	$555,927
Saluda County School District	$181,106
Spartanburg School District 1	$127,615
Spartanburg School District 2	$270,513
Spartanburg School District 3	$174,611
Spartanburg School District 4	$77,944
Spartanburg School District 5	$209,762
Spartanburg School District 6	$289,999
Spartanburg School District 7	$705,703
Sumter School District 02	$594,518
Sumter School District 17	$437,100
Union County School District	$274,334
Williamsburg County School District	$471,870

FY 1992 P. L. 94-142 Allocation
Feb 13, 1992

Dist	92 Allocation
York School District 1	$181,106
York School District 2	$112,332
York School District 3	$455,440
York School District 4	$115,770
Total:	$28,650,320

U.S. DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

GRANT AWARD NOTIFICATION

OFFICE OF SPECIAL EDUCATION
AND
REHABILITATIVE SERVICES

1 RECIPIENT NAME

SC STATE DEPARTMENT OF EDUCATION

1006 RUTLEDGE BLDG./1429 SENATE
COLUMBIA, SC 29201

2 PROJECT TITLE

Grants to States for the Education of Children with Disabilities - State Grants

3 EDUCATION STAFF

Please direct program inquiries to
Thomas B. Irvin (202)732-1114
U.S. Department of Education
MES Building, Room 3625
400 Maryland Avenue, SW
Washington, DC. 20202

Please direct financial inquiries to
Carolyn Dolland (202)401-1504
U.S. Department of Education
FOB-6, Room 3083
400 Maryland Avenue, SW
Washington, DC. 20202

4 AWARD INFORMATION

PR/AWARD NUMBER	H027A20002
ACTION NUMBER	01
ACTION TYPE	NEW
AWARD TYPE	FORMULA

5 AWARD PERIODS

BUDGET PERIOD	07/01/91 - 09/30/93
PROJECT PERIOD	07/01/91 - 09/30/93

6 AUTHORIZED FUNDING

CURRENT AWARD AMOUNT	30,591,250
CUMULATIVE AMOUNT	30,591,250
RECIPIENT COST SHARE	0%

7 ADMINISTRATIVE INFORMATION

PAYMENT METHOD	ED PMS
ENTITY NUMBER	1-576000286-C5
STATE APPL ID #	
ATTACHMENTS	LETTER

8 LEGISLATIVE & FISCAL DATA

AUTHORITY: Individuals with Disabilities Education Act
PROGRAM TITLE: State Grants CFDA 84.027A

APPROPRIATION	FY	CAN	OBJECT CLASS	AMOUNT
91 1/20300	92	E002570	4110	30,591,250

9 TERMS AND CONDITIONS OF AWARD

When issuing statments, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

11/17/91.

Ver. 1 AUTHORIZED OFFICIAL DATE

PLEASE SEE OTHER SIDE FOR MORE INFORMATION

EXPLANATION OF BLOCKS ON THE GRANT AWARD NOTIFICATION

FOR DISCRETIONARY, FORMULA, AND BLOCK GRANTS
(See Block 4 of the Notification)

1. **RECIPIENT NAME** - Legal name of the recipient, name of the primary organizational unit that will undertake the funded activity, and the complete address of the recipient. The recipient is commonly known as the 'grantee.'

*2. **PROJECT TITLE** - A brief description of the project that includes the Catalog of Federal Domestic Assistance (CFDA) title and/or the project title as shown on the grant application form, the date(s) of the application, and any negotiated amendments.

*3. **PROJECT STAFF** - This block contains the names and telephone numbers of the U.S. Department of Education and recipient staff who are responsible for project direction and oversight.

*__RECIPIENT PROJECT DIRECTOR__ - The recipient staff person responsible for administering the project. This person represents the recipient to the U.S. Department of Education.

*__EDUCATION PROGRAM STAFF__ - The U.S. Department of Education staff person responsible for the programmatic concerns of the Department.

*__EDUCATION GRANTS STAFF__ - The U.S. Department of Education staff person responsible for the administrative and business-management concerns of the Department.

4. **AWARD INFORMATION** - Unique items of information that identify this notification.

PR/AWARD NUMBER - A unique, identifying number assigned by the Department to each application. On funded applications, this is commonly known as the 'grant number.'

ACTION NUMBER - A numeral that represents the cumulative number of steps taken by the Department to date to establish or modify the award through fiscal or administrative means. Action number '01' will always be 'NEW AWARD.'

ACTION TYPE - The nature of this notification (e.g., NEW AWARD, CONTINUATION, REVISION, ADMINISTRATIVE).

AWARD TYPE - The particular assistance category in which funding for this award is provided, i.e., DISCRETIONARY, FORMULA, or BLOCK.

5. **AWARD PERIODS** - Project activities and funding are approved with respect to two different time periods, described below:

BUDGET PERIOD - A specific portion of time for which Federal funds are being provided from a particular fiscal year to fund a recipient's approved budget. The start and end dates of the budget period are shown.

PROJECT PERIOD - The complete length of time for approved activities, from the start date of the first budget period to the projected end date of the final budget period. A project period may contain one or more budget periods.

6. **AUTHORIZED FUNDING** - The dollar figures in this block refer to the *Federal* funds provided to a recipient during the award periods.

*__THIS ACTION__ - The amount of funds obligated (added) or de-obligated (subtracted) by this notification.

*__CARRY-OVER__ - The amount of funds, remaining from the previous budget period, that are authorized by the Grants Officer for use in the current budget period. This item does not appear on all notifications.

*__BUDGET PERIOD__ - The total amount of funds of all obligations during the stated budget period, plus any authorized carry-over.

*__PROJECT PERIOD__ - The amount of funds obligated from the start date of the first budget period to this date. This amount does *not* include carry-over.

RECIPIENT COST-SHARE - The funds, expressed as a percentage, that the recipient is required to contribute to the project, as defined by the program legislation or regulations and/or the terms and conditions of the award.

7. **ADMINISTRATIVE INFORMATION** - This information is provided to assist the recipient in completing the approved activities and managing the project in accordance with U.S. Department of Education procedures and regulations.

PAYMENT METHOD - The means by which Federal funds are transferred to a recipient's account. *Most* grants are paid through the U.S. Department of Education Payment Management System (EDPMS).

ENTITY NUMBER - A unique, identifying number that the Department assigns to each recipient for payment purposes. The number is based on the recipient's Internal Revenue Service tax identification number.

*__REGULATIONS__ - The parts of the Education Department General Administrative Regulations (EDGAR) and specific program regulations that govern the award and administration of this grant.

*__ATTACHMENTS__ - Additional sections of the Grant Award Notification that discuss payment and reporting requirements, explain Department procedures, and add special terms and conditions in addition to those established in Block 9 of the award. Any attachments provided with a notification continue in effect through the project period until modified or rescinded by the Grants Officer.

8. **LEGISLATIVE AND FISCAL DATA** - This block gives the name of the authorizing legislation for this grant, the CFDA title of the program through which funding is provided, and U.S. Department of Education fiscal information.

APPROPRIATION, FY, CAN, OBJECT CLASS - The fiscal information recorded by the U.S. Department of Education accounting system to track obligations by award.

AMOUNT - The amount of funds provided from a particular appropriation and common accounting number (CAN). Some notifications authorize more than one amount from separate appropriations and/or CANs. The total of all amounts in this block equals the amount shown on the line, 'THIS ACTION' (see 'AUTHORIZED FUNDING' above (Number 6)).

9. **TERMS AND CONDITIONS OF AWARD** - Requirements of the award that are binding on the recipient.

*__GRANTS OFFICER__ - The U.S. Department of Education official authorized to award Federal funds to the recipient, establish or change the terms and conditions of the award, and authorize modifications to the award.

FOR FORMULA AND BLOCK GRANTS ONLY:
(See also Numbers 1, 4, 5, & 8 above)

2. **PROJECT DESCRIPTION** - A brief statement that identifies the date of the application, the Catalog of Federal Domestic Assistance (CFDA) title, and any amendments.

3. **EDUCATION STAFF** - The U.S. Department of Education staff persons to be contacted for programmatic and payment questions.

6. **AUTHORIZED FUNDING**

CURRENT AWARD AMOUNT - The amount of funds that are obligated (added) or de-obligated (subtracted) by this action.

PREVIOUS CUMULATIVE AMOUNT - The total amount of funds awarded under the grant before this action.

CUMULATIVE AMOUNT - The total amount of funds awarded under the grant, this action included.

7. **STATE APPLICATION IDENTIFIER (SAI) NUMBER** - A twelve-character number assigned by a state clearinghouse to applications that require state review or that are covered by Executive Order 12372.

9. **TERMS AND CONDITIONS OF AWARD**

AUTHORIZED OFFICIAL - The U.S. Department of Education staff person authorized to award Federal funds to the recipient, to establish or change the terms and conditions of the award, and to authorize modifications to the award.

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* [illegible]

U.S. DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

GRANT AWARD NOTIFICATION

OFFICE OF SPECIAL EDUCATION
AND
REHABILITATIVE SERVICES

1 RECIPIENT NAME

SC STATE DEPARTMENT OF EDUCATION

1006 RUTLEDGE BLDG./1429 SENATE
COLUMBIA, SC 29201

2 PROJECT TITLE

Preschool Grant

3 EDUCATION STAFF

Please direct program inquiries to
Nancy Safer (202)732-1109
U.S. Department of Education
MES Building, Room 4630
400 Maryland Avenue, SW
Washington, DC. 20202

Please direct financial inquiries to
Carolyn Dolland (202)401-1504
U.S. Department of Education
FOB-6, Room 3083
400 Maryland Avenue, SW
Washington, DC. 20202

4 AWARD INFORMATION

PR/AWARD NUMBER	H173A20005
ACTION NUMBER	01
ACTION TYPE	NEW
AWARD TYPE	FORMULA

5 AWARD PERIODS

BUDGET PERIOD	07/01/91 - 09/30/93
PROJECT PERIOD	07/01/91 - 09/30/93

6 AUTHORIZED FUNDING

CURRENT AWARD AMOUNT	6,327,379
CUMULATIVE AMOUNT	6,327,379
RECIPIENT COST SHARE	0%

7 ADMINISTRATIVE INFORMATION

PAYMENT METHOD	ED PMS
ENTITY NUMBER	1-576000286-C5
STATE APPL ID #	
ATTACHMENTS	LETTER

8 LEGISLATIVE & FISCAL DATA

AUTHORITY: Individuals with Disabilities Education Act
PROGRAM TITLE: Preschool Grants CFDA 84.173A

APPROPRIATION	FY	CAN	OBJECT CLASS	AMOUNT
91 1/20300	92	E002571	4110	6,327,379

9 TERMS AND CONDITIONS OF AWARD

When issuing statments, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

11/19/91

Ver. 1 AUTHORIZED OFFICIAL DATE

ED - [illegible] (11/88) PLEASE SEE OTHER SIDE FOR MORE INFORMATION

EXPLANATION OF BLOCKS ON THE GRANT AWARD NOTIFICATION

FOR DISCRETIONARY, FORMULA, AND BLOCK GRANTS
(See Block 4 of the Notification)

1. **RECIPIENT NAME** - Legal name of the recipient, name of the primary organizational unit that will undertake the funded activity, and the complete address of the recipient. The recipient is commonly known as the 'grantee.'

*2. **PROJECT TITLE** - A brief description of the project that includes the Catalog of Federal Domestic Assistance (CFDA) title and/or the project title as shown on the grant application form, the date(s) of the application, and any negotiated amendments.

*3. **PROJECT STAFF** - This block contains the names and telephone numbers of the U.S. Department of Education and recipient staff who are responsible for project direction and oversight.

*RECIPIENT PROJECT DIRECTOR - The recipient staff person responsible for administering the project. This person represents the recipient to the U.S. Department of Education.

*EDUCATION PROGRAM STAFF - The U.S. Department of Education staff person responsible for the programmatic concerns of the Department.

*EDUCATION GRANTS STAFF - The U.S. Department of Education staff person responsible for the administrative and business-management concerns of the Department.

4. **AWARD INFORMATION** - Unique items of information that identify this notification.

PR/AWARD NUMBER - A unique, identifying number assigned by the Department to each application. On funded applications, this is commonly known as the 'grant number.'

ACTION NUMBER - A numeral that represents the cumulative number of steps taken by the Department to date to establish or modify the award through fiscal or administrative means. Action number '01' will always be 'NEW AWARD.'

ACTION TYPE - The nature of this notification (e.g., NEW AWARD, CONTINUATION, REVISION, ADMINISTRATIVE).

AWARD TYPE - The particular assistance category in which funding for this award is provided, i.e., DISCRETIONARY, FORMULA, or BLOCK.

5. **AWARD PERIODS** - Project activities and funding are approved with respect to two different time periods, described below:

BUDGET PERIOD - A specific portion of time for which Federal funds are being provided from a particular fiscal year to fund a recipient's approved budget. The start and end dates of the budget period are shown.

PROJECT PERIOD - The complete length of time for approved activities, from the start date of the first budget period to the projected end date of the final budget period. A project period may contain one or more budget periods.

6. **AUTHORIZED FUNDING** - The dollar figures in this block refer to the *Federal* funds provided to a recipient during the award periods.

*THIS ACTION - The amount of funds obligated (added) or de-obligated (subtracted) by this notification.

*CARRY-OVER - The amount of funds, remaining from the previous budget period, that are authorized by the Grants Officer for use in the current budget period. This item does not appear on all notifications.

*BUDGET PERIOD - The total amount of funds of all obligations during the stated budget period, plus any authorized carry-over.

*PROJECT PERIOD - The amount of funds obligated from the start date of the first budget period to this date. This amount does *not* include carry-over.

RECIPIENT COST-SHARE - The funds, expressed as a percentage, that the recipient is required to contribute to the project, as defined by the program legislation or regulations and/or the terms and conditions of the award.

7. **ADMINISTRATIVE INFORMATION** - This information is provided to assist the recipient in completing the approved activities and managing the project in accordance with U.S. Department of Education procedures and regulations.

PAYMENT METHOD - The means by which Federal funds are transferred to a recipient's account. *Most* grants are paid through the U.S. Department of Education Payment Management System (EDPMS).

ENTITY NUMBER - A unique, identifying number that the Department assigns to each recipient for payment purposes. The number is based on the recipient's Internal Revenue Service tax identification number.

*REGULATIONS - The parts of the Education Department General Administrative Regulations (EDGAR) and specific program regulations that govern the award and administration of this grant.

*ATTACHMENTS - Additional sections of the Grant Award Notification that discuss payment and reporting requirements, explain Department procedures, and add special terms and conditions in addition to those established in Block 9 of the award. Any attachments provided with a notification continue in effect through the project period until modified or rescinded by the Grants Officer.

8. **LEGISLATIVE AND FISCAL DATA** - This block gives the name of the authorizing legislation for this grant, the CFDA title of the program through which funding is provided, and U.S. Department of Education fiscal information.

APPROPRIATION, FY, CAN, OBJECT CLASS - The fiscal information recorded by the U.S. Department of Education accounting system to track obligations by award.

AMOUNT - The amount of funds provided from a particular appropriation and common accounting number (CAN). Some notifications authorize more than one amount from separate appropriations and/or CANs. The total of all amounts in this block equals the amount shown on the line, 'THIS ACTION' (see 'AUTHORIZED FUNDING' above (Number 6)).

9. **TERMS AND CONDITIONS OF AWARD** - Requirements of the award that are binding on the recipient.

*GRANTS OFFICER - The U.S. Department of Education official authorized to award Federal funds to the recipient, establish or change the terms and conditions of the award, and authorize modifications to the award.

FOR FORMULA AND BLOCK GRANTS ONLY:
(See also Numbers 1, 4, 5, & 8 above)

2. **PROJECT DESCRIPTION** - A brief statement that identifies the date of the application, the Catalog of Federal Domestic Assistance (CFDA) title, and any amendments.

3. **EDUCATION STAFF** - The U.S. Department of Education staff persons to be contacted for programmatic and payment questions.

6. **AUTHORIZED FUNDING**

CURRENT AWARD AMOUNT - The amount of funds that are obligated (added) or de-obligated (subtracted) by this action.

PREVIOUS CUMULATIVE AMOUNT - The total amount or funds awarded under the grant before this action.

CUMULATIVE AMOUNT - The total amount of funds awarded under the grant, this action included.

7. **STATE APPLICATION IDENTIFIER (SAI) NUMBER** - A twelve-character number assigned by a state clearinghouse to applications that require state review or that are covered by Executive Order 12372.

9. **TERMS AND CONDITIONS OF AWARD**

AUTHORIZED OFFICIAL - The U.S. Department of Education staff person authorized to award Federal funds to the recipient, to establish or change the terms and conditions of the award, and to authorize modifications to the award.

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* This item differs or does not appear on formula and block grants.

BEST COPY AVAILABLE

GPO 936-055

APPENDIX B

Leadership Efforts
(memorandums, letters, etc.)

2

STATE OF SOUTH CAROLINA

DEPARTMENT OF EDUCATION

Dr. Barbara Stock Nielsen
STATE SUPERINTENDENT OF EDUCATION

TO: County and District Superintendents
Coordinators of Programs for the Handicapped
State Operated Programs
Headstarts

THROUGH: Carolyn C. Knight, Supervisor CCK
Carolyn S. Boney, Supervisor CSB
Programs for the Handicapped

FROM: Marcia Kelly, Education Associate MK
Mary Ginn, Education Associate MG
Programs for the Handicapped

SUBJECT: Clarification of Issues Regarding Preschool Children with Disabilities

DATE: September 16, 1991

At the meetings held in Rock Hill and Columbia on June 25 and 27, respectively, we indicated that a memorandum would be forthcoming to clarify issues pertaining to programs for preschool children with disabilities. Hopefully, we have included all of these items as follows:

Evaluation

- Consistent with the definition of legal school age, five year old children with disabilities and four year old vision and hearing impaired children must be evaluated in accordance with the criteria outlined in the **Procedures for Survey Screening, Evaluation, Placement and Dismissal of Children Into/Out of Programs for the Handicapped.**

- Three and four year old children with disabilities (other than four year old vision and/or hearing impaired) **must be evaluated in accordance with the attached criteria.** The amended version, as you will note, deletes the requirement that a school psychologist must participate in staffing meetings conducted for preschool speech impaired children.

- If three and four year old children with disabilities (other than four year old VH/HH children) were evaluated prior to July 1, 1991, utilizing the **Interim Placement Guidelines for the Early Intervention Program, it will not** be necessary to reevaluate these children using the criteria set forth in the attached.

- An LEA may accept the evaluation data for preschool children with disabilities who have previously been evaluated by other state agencies or LEAs in other states, consistent with timelines, consent requirements and certification requirements that apply to all children with disabilities as indicated in the **Protection in Evaluation Technical Assistance Document.**

1429 SENATE STREET COLUMBIA, SOUTH CAROLINA 29201 (803) 734-8492 FAX (803) 734-3389

Least Restrictive Environment

As you are aware, LRE must be documented for three and four year old preschool children with disabilities. The attached forms were developed by Cindy Flynn and Michael Lewis as a suggested format for documenting LRE for these children (those other than four year old VH/HH children). Although these forms are not mandatory, we feel that they meet the intent of federal regulations.

Funding

- We anticipate that P.L. 99-457 funds will be approximately $796 per child and P.L. 94-142 funds will be approximately $382 per child.
- If a child turns five after November 1 of the school year, he may continue the current placement and continue to draw funds under Section 28.144 of the 1991 General Appropriation Act.
- Preschool children with disabilities placed in an EIA four year old program may draw EIA funds and funds under either EFA or Section 28.144 of the General Appropriation Act, as appropriate.
- Other questions regarding funding under P.L. 94-142 should be directed to Ellen Carruth and funding under P.L. 99-457 should be directed to Frances Lewis of Programs for the Handicapped. Other questions regarding state funding under EFA or under Section 28.144 of the General Appropriation Bill should be directed to the Office of Finance at 734-8799.

Certification

Preschool children with disabilities may receive services from personnel possessing a State Department of Education teaching certificate in either early childhood education or special education. However, if the person delivering the service is certificated in early childhood education, a portion of the child's program must be provided by a person certificated in an area of special education consistent with the child's needs as stated in the IEP. The area of speech correction is considered to be an area of special education.

Contractual Agreements

It is, of course, recognized that districts may negotiate a variety of contractual arrangements with other districts and public or private agencies for the provision of appropriate special education and related services for preschool children with disabilities. Should such arrangements be made, the district remains responsible for ensuring the provision of appropriate services, including the development and implementation of IEPs and the appropriate credentialing of teachers. As districts are monitored to determine compliance with P.L. 94-142, any pupils served through such contractual arrangements will be included in the monitoring sample. Please be aware that contractual agreements (i.e., multi-district, other facilities and financial aid grants) are not required for preschool children with disabilities, with the exception of children of legal school age (four-year-old vision or hearing impaired and five-year-old child[illegible] disabilities).

Transportation

Questions regarding transportation should be directed to the Office of Transportation at 734-8244.

It should be noted that during the 1991-1992 school year, the State Department of Education and various legislative bodies will be addressing the myriad issues inherent to a comprehensive service system for children with disabilities, ages three through five.

We invite your comments relative to issues of concern in the implementation of programs/services for preschool children with disabilities.

MEG:tb

Attachments

meg\preschol\issues

NINETEENTH ANNUAL

FALL ADMINISTRATORS' CONFERENCE

Sheraton Charleston Hotel

Charleston, South Carolina

October 7, 8, and 9, 1991

DEPARTMENT of EDUCATION

SOUTH CAROLINA

Monday, October 7, 1991

4:00 - 5:00	**Registration**

Tuesday, October 8, 1991

8:30 - 9:00	**Coffee and Registration**
9:00 - 9:15	**Welcome** Luther W. Seabrook, Senior Executive Assistant Division of Instruction and Curriculum South Carolina Department of Education
9:15 - 10:45	**Organizing Schools to Support Inclusion** Dave Peterson, Director of Support Services for Northern Suburban Special Education District Highland Park, Illinois
10:45 - 11:00	**Break**
11:00 - 11:45	**Preschool Issues** Gloria Harbin, Associate Director Carolina Policies Studies Program University of North Carolina at Chapel Hill Chapel Hill, North Carolina
11:45 - 1:00	**Lunch**
	Strategies for Implementing Preschool Programs
1:00 - 1:45	William Malloy, Assistant Superintendent for Exceptional Education and Student Services Durham City School District Durham, North Carolina
1:45 - 2:30	Dave Sable, Director of Special Education Monroe County, West Virginia
2:30 - 2:45	**Break**

2:45 - 3:30 **Issue Identification Groups**

INCLUSION TOPICS

Attitudes/Support - (Group 1)
Gwen Kodad, Director, Special Services
York School District Three

Strategies for Inclusion - (Group 2)
Robert Hatchette, Director, Special Services
Lexington School District Five

Organizing Available Personnel - (Group 3)
Floy Shuler, IEP Curriculum Coordinator
Dorchester School District Two

Parental/Community Involvement - (Group 4)
Bettie Stringfellow, Director, Special Services
Fairfield County School District

PRESCHOOL TOPICS

LRE/IEPs - (Group 5)
Verneta Guess, Administrative Assistant to the Superintendent
Orangeburg School District Six

Program Models/Curriculum - (Group 6)
Philippa Sellers, Director, Special Services
Spartanburg School District Three

Personnel Training and Parental Training/Involvement - (Group 7)
Marlene Metts, Director, Special Services
Kershaw County School District

Child Find/Assessment - (Group 8)
Terry Orr, Director, Special Services
Florence School District Five

Funding/Transportation - (Group 9)
Cynthia Downs, Coordinator, Exceptional Children
Saluda County School District

Collaboration/Transportation - (Group 10)
Laura Mohr, Psychologist
Lexington School District Three

3:30 - 5:00 **Report and Reaction to Issue Identification Groups**

Wednesday, October 9, 1991

8:00 - 8:30	**Coffee**
8:30 - 10:00	**Special Education: How We Got Here, Where We're Going** James Tucker, State Director Pennsylvania Department of Special Education Harrisburg, Pennsylvania
10:00 - 10:15	**Break**
10:15 - 12:00 Noon	**Managing Aggression and Non-Compliance in Students: Alternatives to Suspension** William Jensen, Chairman and Professor Department of Educational Psychology University of Utah Salt Lake City, Utah
12:00 -1:15	**Lunch**
1:15 - 2:30	**504 Issues** Barbra R. Shannon, Acting Deputy Director U.S. Department of Education Office of Civil Rights Atlanta, Georgia
2:30 - 3:00	**Update/Status of Programs for the Handicapped Issues**
3:00 - 3:15	**Conference Wrap-up and Evaluation**

STAFF MEMBERS OF PROGRAMS FOR THE HANDICAPPED

SOUTH CAROLINA DEPARTMENT OF EDUCATION

Carolyn S. Boney, Supervisor
Carolyn C. Knight, Supervisor

Victoria Byerly, Education Associate
(Emotionally Handicapped)

Ellen D. Carruth, Education Associate
(Service Delivery Agreements)

Cindy Flynn, Education Associate
(Transition)

Mary E. Ginn, Education Associate
(Preschool Handicapped)

Marcia Kelly, Education Associate
(Mentally Handicapped and Preschool)

Frances F. Lewis, Education Associate
(EHA-B Grants Administration)

Michael A. Lewis, Education Associate
(Hearing Handicapped)

Beth Lowman, Education Associate
(Psychological Services)

Lois G. Stephenson, Education Associate
(State Plan)

Suzanne Swaffield, Education Associate
(Visually Handicapped)

2 C2

STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

Dr. Barbara Stock Nielsen
State Superintendent of Education

TO: District and County Superintendents
Coordinators of Programs for Exceptional Children

FROM: Luther W. Seabrook, Senior Executive Assistant LWS
Division of Curriculum and Instruction

SUBJECT: Programs for Preschool Children with Disabilities

DATE: January 21, 1992

We have received a number of inquiries regarding the responsibilities of local education agencies (LEAs) in the provision of services to children with disabilities, ages three through five. Hopefully, this information will be of assistance in clarifying these matters. A copy of the legislation promulgated during the 1991 legislative term was previously disseminated to you; however, we have attached an additional copy for reference. Section 28.144 of H.3650 mandates that LEAs provide special education and related services to preschool children with disabilities, ages three through five, through Fiscal Year 1991-1992. We anticipate that the General Assembly will enact permanent legislation during the current legislative term.

Consistent with federal requirements under Public Law 99-457, a state mandate for services to preschool children with disabilities represents a downward extension of all the requirements of Public Law 94-142 to include children with disabilities upon reaching their third birthday. Pertinent requirements include child identification, nondiscriminatory testing and placement, individualized education programs (IEPs), least restrictive environment, procedural due process, surrogate parents, and confidentiality. The mandate also requires LEAs to provide transportation, including special transportation when required by an IEP.

The type of special education and related services to be provided and the specific amount of time for the provision of these programs and services must be based on the individual needs of the child as determined by a multidisciplinary team and set forth in the IEP. Programs and services for five year old children with disabilities and four year old visually impaired and hearing impaired children must meet the requirements of the Defined Minimum Program. Additionally, LEAs must adhere to State Board of Education regulations regarding evaluation, placement, service delivery and credentialing.

Although there are no State Board of Education regulations presently governing programs and services for three year old children with disabilities and four year old children (other than visually impaired and hearing impaired), the LEA application for funding under Public Law 99-457 contains assurances relative to credentialing of personnel and evaluation/placement criteria. Specifically, LEAs must adhere to the evaluation and placement criteria developed by the State Task Force on Preschool Children with Disabilities disseminated July 11, 1990 (as amended). Relative to credentialing, preschool children with disabilities must receive instruction from personnel possessing valid State Department of Education teaching certificates in early childhood or special education. However, a portion of their instructional time must be provided by individuals possessing valid teaching credentials in special education. Contracted speech-language services may be provided by a speech-language pathologist licensed by the South Carolina Board of Examiners in Speech Pathology and Audiology. Persons providing related services must possess valid State Department of Education certification or South Carolina licensure in the area of the service rendered.

I am hopeful that this information will be of assistance in clarifying issues relative to LEA responsibilities for services to preschool children with disabilities, ages three through five. Should you need additional information, feel free to contact the Office of Programs for Exceptional Children at 734-8465.

LWS:tb

meg\seabrook\presmemo

Section 28.144 of H.3650, Annual General Appropriation Bill

"The Early Intervention Programs for Preschool-Age Handicapped Children Act," Act 322 of 1990 shall be reauthorized through Fiscal Year 1991-92 to meet the provisions of Public Law 99-457 and to that end, the boards of trustees in each school district shall make available special education and related services to all preschool-age handicapped children. State funding for the programs provided for the three and four-year-old handicapped children served under this act shall be distributed based on the district's index of tax-paying ability as defined in Section 59-20-20(3) and the service model chosen for each child. The average amount per child served in the speech model shall be $125 and an average amount per child served in the three other service models shall be $900 to the extent possible with the funds appropriated under VII. Direct Aid School Districts, P.L. 99-457. For the purposes of this proviso, the four models of service are those proposed by the Office of Programs for the Handicapped of the Department of Education for implementation of P.L. 99-457, speech, self-contained, itinerant, and homebased instruction. Five-year-old handicapped children shall continue to be funded under the Education Finance Act of 1977. For the purposes of ascertaining costs, service to all five-year-olds with handicapping conditions funded under the Education Finance Act shall be classified according to the four service models. Of the funds appropriated herein for P.L. 99-457, $50,000 shall be transferred to the Joint Legislative Committee on Children for continued planning and development of the preschool handicapped services as established under P.L. 99-457. Any funds not expended by the Joint Committee by March 1 shall be used for programs serving handicapped three- and four-year-olds."

APPENDIX C

Medicaid Information
(MOA, estimates for Medicaid)

MEMORANDUM OF AGREEMENT

BETWEEN

STATE HEALTH AND HUMAN SERVICES FINANCE COMMISSION

AND

SOUTH CAROLINA DEPARTMENT OF EDUCATION

THIS AGREEMENT is entered into as the first day of July, 1991, by and between the State Health and Human Services Finance Commission, Post Office Box 8206, Columbia, South Carolina, 29202-8206, hereinafter referred to as "SHHSFC" and the South Carolina Department of Education, 1429 Senate Street, Columbia, South Carolina, 29201, hereinafter referred to as "DOE". For the purpose of this agreement, the term local education agency will mean the ninety-one local school districts and, hereinafter, will be referred to as "LEA".

The parties agree as follows:

A. PURPOSE

The purpose of this agreement is to set forth the responsibilities of each of the parties to assure that evaluation and therapeutic services are available to Medicaid eligible handicapped children three to twenty-one years of age. Evaluations administered by LEAs consistent with Public Law 94-142 and state regulations for the purpose of determining the need for special education and related services and the provision of therapeutic services, based on a child's Individualized Education Program (IEP), will be covered by Medicaid. Specific service areas to be covered will include audiological services, speech-language services, psychological services, occupational therapy and physical therapy.

This agreement seeks to ensure the availability of services by providing for payment to licensed audiologists, licensed speech-language pathologists, licensed doctoral level psychologists and licensed physical and occupational therapists practicing in the private sector. Medicaid payments to LEAs will be made for services rendered by State Department of Education certificated personnel in the service areas where state certification exists and for services rendered by licensed personnel in areas where state certification does not exist.

B. RESPONSIBILITIES

DOE Responsibilities:

1. DOE will act as an intermediary between SHHSFC and LEAs by assuming responsibility for accepting state matching funds submitted by participating LEAs and transmitting said funds to SHHSFC. Said Funds will be transferred to SHHSFC by Interdepartmental Transfer (IDT) prior to or on the date each LEA begins participation in this program, and thereafter on a quarterly basis.

2. DOE agrees to transfer to SHHSFC state matching funds (@ 50/50 match rate) in the amount of Forty-two Thousand, Eight Hundred Forty-three Dollars ($42,843) for two (2) staff positions to be located in the SHHSFC. One staff position will be housed in the Division of Primary Care and the other will be housed in the Division of Preventive Care. The job classifications and responsibilities will be as follows:

    a. One (1) Medicaid Program Manager, to provide technical support and training to LEAs for the physical therapy, occupational therapy and psychological services programs and to help ensure that existing and new services are in compliance with federal and state Medicaid policies.

    b. One (1) Medicaid Program Manager, to provide technical support and training to LEAs for the speech-language and audiology programs and to help ensure that existing and new services are in compliance with federal and state Medicaid policies, procedures and regulations.

3. The DOE will provide state matching funds in the amount of Fifty Thousand, Two Hundred Seventy-two and 50/100 Dollars ($50,272.50) to support three state positions to be located within the DOE. The Job Classifications and responsibilities will be as follows:

    a. One (1) Education Consultant/Specialist, to assist in the development and management of Medicaid programs within the Department of Education and to assist in ensuring that existing and new services are in compliance with both federal and state Medicaid and Education policies.

    b. One (1) Accounting Manager (0.2% of a FTE), to be responsible for supervising and assisting in the management of the Medicaid program within the Department of Education. The Accounting

Manager will supervise the development of a financial management system to monitor Medicaid payments and receivables from Local Education Agencies.

c. One (a) Accountant (0.8% of a FTE), to be responsible for the development and maintenance of a financial management system within the DOE to monitor Medicaid payments and receivables from Local Education Agencies.

SHHSFC RESPONSIBILITIES:

1. SHHSFC agrees to enroll licensed audiologists, licensed speech-language pathologists, licensed physical and occupational therapists, licensed doctoral-level psychologists and individual LEAs as Medicaid providers of evaluation and treatment services.

2. SHHSFC will provide the Federal Financial Participation (FFP) portion of funding to pay the aforementioned practitioners for evaluation and treatment services rendered to Medicaid eligible children three to twenty-one years of age. Payment will be at the predetermined rate as established by SHHSFC.

3. Prior to the implementation date of this program, SHHSFC will provide a county-specific listing of Medicaid eligible children to all participating LEAs to be utilized solely for the purpose of identifying Medicaid eligible children. Updated eligibility information will be provided at least ~~monthly~~ to enable LEAs to maximize services under Medicaid.

4. SHHSFC will provide a report to LEAs within six months after initial implementation of Medicaid reimbursement for services. Subsequently, quarterly reports will be provided to school districts. These reports will indicate the students receiving services, specific services provided, the amount paid for services and the amount of state matching funds due from a school district for the upcoming quarter. The SHHSFC will notify the DOE regarding the amount of match money to be transmitted from the LEA to the DOE.

5. SHHSFC will provide FFP funds to support two staff positions to be located in SHHSFC's Division of Primary Care and Division of Preventive Care.

6. SHHSFC will provide FFP funds to support two staff positions to be located within the DOE.

C. GENERAL PROVISIONS

1. The parties to this Agreement will facilitate the cooperative interaction among LEAs and other entities to ensure the delivery of services to special needs children.

2. The parties of this Agreement will work jointly to provide training to LEA superintendents/designees, finance personnel, special education personnel and service providers.

D. TIME OF PERFORMANCE

This agreement shall be in effect from the date of signature through June 30, 1992, unless sooner terminated in writing by either party.

E. TERMS AND CONDITIONS

1. Any modification of this agreement mutually agreed upon by DOE and SHHSFC shall be incorporated by written amendment to this agreement.

2. DOE will be responsible for notifying SHHSFC in the event that sufficient appropriations are not available for the DOE to meet the obligations set forth in section B-2, a, b, and B-3 of the agreement. Upon such notification, SHHSFC reserves the right to effect any program changes necessary to reduce SHHSFC financial liability.

3. In the event of the desire to terminate this agreement by either party, the party terminating the agreement shall give notice of such termination in writing to the other party. Notice of termination shall be sent by certified mail, return receipt requested, and shall be effective thirty (30) days after the date of receipt, unless otherwise provided by law. Requests for termination shall be made with the understanding that existing funds which may be required to ensure payment for any and all services provided prior to the termination date shall remain obligated and shall not be subject to refund.

The parties agree to any and all provisions stipulated above.

STATE HEALTH AND HUMAN
SERVICES FINANCE COMMISSION
"SHHSFC"

BY: J W Blair
Eugene A. Laurent, Ph.D.
Executive Director

WITNESS:

Gwendolyn Ellison

Jean C. Labrad

SOUTH CAROLINA DEPARTMENT
OF EDUCATION
"DOE"

BY: Barbara S. Nielsen
Barbara Stock Nielsen, Ed.D.
State Superintendent of Education

WITNESS:

Frazier Davis

Patricia G. Hinson

APPENDIX A
DOE AND SHHSFC
ADMINISTRATIVE COST BUDGET

STATE FISCAL YEAR 1991-1992

COST EXPENSED AT SHHSFC			
Employees Salary: 2 Medicaid Program Managers (FTE's at SHHSFC)	$70,294.00	$35,147.00	$35,147.00
Fringe Benefits			
FICA	5,378.00	2,689.00	2,689.00
Retirement	6,460.00	3,230.00	3,230.00
Medical	3,448.00	1,724.00	1,724.00
Group Life Insurance	106.00	53.00	53.00
SUB-TOTAL	$85,686.00	$42,843.00	$42,843.00
COST EXPENSED AT DOE			
Employees Salary:			
1 Education Consultant (1.0 FTE)	$39,539.00	$19,769.50	$19,769.50
1 Accountant (0.8 FTE)	24,994.00	12,497.00	12,497.00
1 Accounting Manager (0.2 FTE)	7,603.00	3,801.50	3,801.50
Fringe Benifits:			
FICA	5,518.00	2,759.00	2,759.00
Medical	3,476.00	1,738.00	1,738.00
Retirement	6,738.00	3,369.00	3,369.00
Workman's Comp	231.00	115.50	115.50
Unemployment	79.00	39.50	39.50
TOTAL SALARY AND FRINGE	$88,178.00	$44,089.00	$44,089.00
Travel	4,000.00	2,000.00	2,000.00
Misc. Operating Cost (Supplies/Telephone/ Printing/Postage	4,500.00	2,250.00	2,250.00
Indirect Cost (4%)	3,867.00	1,933.50	1,933.00
SUB-TOTAL	$100,545.00	$50,272.50	$50,272.00
TOTAL	$186,231.00	$93,115.50	$93,115.00

Note: This Apprendix is to be used as an estimate of projected expenditures. It is not to be used as a line item budget.

ATTACHMENT 2

District Expenditures
Speech Therapy

[illegible]	Number Weekly Units	% In Free Lunch Prgm.	Est. Number Medicaid	Est. Medicaid Expenditure	Estimated State Match	Adjusted % In Free Lunch	Est. Medicaid Expenditures	Estimated State Match
n	433	[illegible]	159	[illegible]	$90,[illegible]	12.[illegible]	$145,[illegible]	[illegible]
neale	130	[illegible]	1[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
reen 2	119	17.[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
reen 3	103	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
reen 4	101	21.[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
reen 5	400	[illegible]	29	[illegible]	$50,[illegible]	[illegible]	[illegible]	[illegible]
er 2	215	72.[illegible]	155	$325,[illegible]	$59,191	[illegible]	[illegible]	[illegible]
erg 1	210	[illegible]	114	$275,[illegible]	[illegible],916	[illegible]	[illegible]	[illegible]
well 19	[illegible]	59.[illegible]	50	$104,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
well 29	[illegible]	62.[illegible]	[illegible]	$55,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
well 45	158	[illegible]	[illegible]	$113,[illegible]	$31,259	[illegible]	[illegible]	[illegible]
rert	632	[illegible]	[illegible]	[illegible]	$116,[illegible]	[illegible]	[illegible]	[illegible]
ety	600	[illegible]	140	$290,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	200	[illegible]	129	$269,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
eston	2040	43.[illegible]	230	$1,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
kee 1	400	[illegible]	113	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
er	300	[illegible]	133	$277,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
erfield	120	[illegible]	45	$93,[illegible]01	[illegible]	[illegible]	[illegible]	[illegible]
reen 2	180	[illegible]	92	$190,9[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
reen 3	57	[illegible]	[illegible]	$51,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
eton	120	46.[illegible]	[illegible]	$17[illegible],096	[illegible]	[illegible]	[illegible]	[illegible]
n 1	[illegible]	[illegible]	[illegible]	$57,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
n 2	217	[illegible]	127	$26[illegible],[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
n 3	120	34.[illegible]	66	$137,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ester 3	162	14.[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ester 4	110	[illegible]	60	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
field	200	[illegible]	69	$135,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
field 4	[illegible]	[illegible]	116	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ence 1	600	[illegible]	207	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ence 2	105	43.[illegible]	45	$93,712	[illegible]	[illegible]	[illegible]	[illegible]
ence 3	0	[illegible]	0	$0	[illegible]	[illegible]	$0	$0
ence 4	160	63.[illegible]	109	$226,973	$62,[illegible]	[illegible]	$113,[illegible]	$31,[illegible]
ence 5	41	[illegible]	18	$37,[illegible]	$10,[illegible]	[illegible]	[illegible]	$5,173
etown	452	43.[illegible]	195	$[illegible]06,149	$111,[illegible]	[illegible]	$203,[illegible]	[illegible]
ville	2131	20.[illegible]	425	[illegible]	$243,[illegible]	[illegible]	[illegible]	$121,[illegible]
ood 20	400	31.[illegible]	127	$26[illegible],[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
ood 21	60	19.[illegible]	12	$24,[illegible]	$5,[illegible]	[illegible]	$12,[illegible]	[illegible]
ood 22	0	13.[illegible]	0	$0	$0	[illegible]	$0	$0
n 1	60	43.[illegible]	[illegible]	$51,027	$16,[illegible]	[illegible]	$30,[illegible]	[illegible]
n 2	60	[illegible]	[illegible]	$92,976	[illegible]	[illegible]	[illegible]	$12,[illegible]
[illegible]	200	67.[illegible]	13[illegible]	$279,[illegible]	$76,[illegible]	[illegible]	$137,[illegible]	[illegible]
aw	0	[illegible]	0	$0	$0	[illegible]	$0	$0
ester	[illegible]	[illegible]	115	[illegible]	$55,[illegible]	[illegible]	$119,[illegible]	$32,[illegible]
[illegible]	[illegible]	[illegible]	96	$199,160	$56,310	[illegible]	$99,[illegible]	$21,[illegible]
[illegible]	810	[illegible]	[illegible]	$502,070	$137,[illegible]	[illegible]	$251,[illegible]	[illegible]
[illegible]	300	[illegible]	194	[illegible]	$110,[illegible]	[illegible]	$201,[illegible]	$53,160
gton 1	1043	10.[illegible]	110	$227,791	$62,[illegible]	[illegible]	$113,[illegible]	$31,[illegible]
gton 2	45	19.[illegible]	9	$17,971	[illegible]	[illegible]	$3,[illegible]	[illegible]
gton 3	104	[illegible]	[illegible]	$20,[illegible]	[illegible]	[illegible]	[illegible]	$1,062
gton 4	134	[illegible]	[illegible]	[illegible]	$20,682	[illegible]	$37,[illegible]	$10,[illegible]
gton 5	450	[illegible]	19	$39,[illegible]	[illegible]	[illegible]	$19,[illegible]	$5,[illegible]
n 1	220	[illegible]	98	$204,090	$55,561	[illegible]	$102,[illegible]	$27,981
n 2	120	51.[illegible]	62	$128,[illegible]	$33,110	[illegible]	$86,022	$17,[illegible]
n 3	60	68.[illegible]	[illegible]	[illegible]	[illegible],270	[illegible]	$42,[illegible]	$11,[illegible]
n 4	60	59.1[illegible]	[illegible]	$73,[illegible]	$20,276	[illegible]	$36,373	$10,112
ora	240	57.[illegible]	[illegible]	$297,[illegible]	$73,[illegible]	[illegible]	$143,[illegible]	[illegible]
1	120	[illegible]	[illegible]	$132,[illegible]	$36,[illegible]	[illegible]	$66,[illegible]	$18,171
ery	324	[illegible]	117	$243,959	$66,[illegible]	[illegible]	$121,920	$33,[illegible]
[illegible]	530	18.[illegible]	100	$207,[illegible]	$36,[illegible]	18.[illegible]	$103,[illegible]	[illegible]
burg 1	105	53.[illegible]	61	$125,[illegible]	$34,[illegible]	9.[illegible]	$53,[illegible]	$17,[illegible]
burg 2	114	78.[illegible]	29	$155,502	$50,[illegible]	29.[illegible]	$92,551	[illegible]
burg 3	220	68.[illegible]	192	$399,[illegible]	$109,[illegible]	9.[illegible]	$199,[illegible]	$54,[illegible]
burg 4	109	[illegible]	[illegible]	$73,[illegible]	$20,[illegible]	[illegible]	$37,[illegible]	$10,[illegible]
burg 5	75	[illegible]	[illegible]	$91,[illegible]	$26,781	16.[illegible]	[illegible]	$12,490
burg 6	103	50.[illegible]	[illegible]	$107,9[illegible]	$29,407	29.[illegible]	$53,[illegible]	[illegible]
burg 7	180	[illegible]	143	$298,[illegible]	$81,[illegible]	19.[illegible]	[illegible],198	[illegible],910
burg 8	77	47.[illegible]	[illegible]	$73,[illegible]	$20,[illegible]	[illegible]	$37,[illegible]	$10,[illegible]
ms	450	14.[illegible]	65	$135,[illegible]	$37,[illegible]	7.[illegible]	$67,[illegible]	$18,607
land 1	1275	45.[illegible]	564	$1,172,[illegible]	$321,[illegible]	[illegible]	$526,161	$160,725
land 2	800	13.[illegible]	104	$216,[illegible]	$39,[illegible]	6.[illegible]	$108,160	$29,637
1	220	38.[illegible]	109	[illegible],139	$61,302	19.[illegible]	$112,59[illegible]	$30,901
burg 1	0	17.[illegible]	0	$0	$0	8.[illegible]	$0	$0
burg 2	324	13.[illegible]	43	$90,305	$26,762	6.[illegible]	$45,1[illegible]	$12,[illegible]81
burg 3	200	26.0[illegible]	43	$99,[illegible]	$27,[illegible]	12.0[illegible]	$49,9[illegible]	$13,6[illegible]
burg 4	0	22.[illegible]	0	$0	$0	11.0[illegible]	$0	$0
burg 5	200	14.[illegible]	29	$50,[illegible]	$16,456	7.[illegible]	$30,[illegible]	$8,127
burg 6	[illegible]	13.[illegible]	45	$94,763	$23,985	6.[illegible]	[illegible]	$12,992
burg 7	[illegible]	40.[illegible]	305	$633,509	$173,791	20.1[illegible]	$316,905	[illegible],395
er 17	[illegible]	44.[illegible]	318	$660,442	$181,093	[illegible]	$330,271	$90,[illegible]
er 2	[illegible]	48.[illegible]	261	$543,04[illegible]	$148,903	24.[illegible]	$271,[illegible]	$7[illegible],452
[illegible]	240	[illegible]	81	$168,[illegible]	[illegible],129	16.9[illegible]	[illegible],115	$23,06[illegible]
sburg	270	73.[illegible]	199	$413,[illegible]	$113,[illegible]	16.[illegible]	$206,[illegible]	$56,609
[illegible]	180	25.[illegible]	45	$93,97[illegible]	$23,763	12.[illegible]	$46,987	$12,[illegible]
[illegible]	0	14.0[illegible]	0	$0	$0	7.0[illegible]	$0	$0
[illegible]	400	20.[illegible]	80	$167,[illegible]	$45,355	10.1[illegible]	$83,616	$27,928
[illegible]	150	11.5[illegible]	17	$35,350	$7,[illegible]	5.[illegible]	$17,943	[illegible],919
[illegible]	25947		2925	$15,394,[illegible]	$5,126,0[illegible]		$7,362,[illegible]	$2,583,31[illegible]

* Lunch percentage adjusted in column 7 to reflect 50% of the actual # of children participating in free lunch program.

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ATTACHMENT 3

District Expenditures
Psychological Services

District	Total Expenditures	% in Free Lunch Prgm.	Est. Medicaid Expenditures	Estimated State Match	Adjusted % in Free Lunch	Est. Medicaid Expenditures	Estimated State Match
Aiken	$342,073	25.0	$85,530	$23,447	12.5	$42,760	$11,725
Allendale	$0	71.[illegible]	$0	$0	35.[illegible]	$0	$0
Anderson 2	$20,000	17.[illegible]	$3,4[illegible]	$943	8.[illegible]	$1,7[illegible]	[illegible]
Anderson 3	$24,050	22.0	$5,291	$1,451	11.0	[illegible]	[illegible]
Anderson 4	$13,420	21.[illegible]	$2,915	$779	10.[illegible]	$1,457	[illegible]
Anderson 5	$0	[illegible]	$0	$0	11.[illegible]	$0	$0
Bamberg 2	$18,000	[illegible]	$13,037	$3,573	36.[illegible]	$6,516	$1,78[illegible]
Bamberg 1	$0	[illegible]	$0	$0	[illegible]	$0	$0
Barnwell 19	$5,000	[illegible]	$3,576	$981	[illegible]	$1,783	[illegible]
Barnwell 29	$0	42.[illegible]	$0	$0	21.1	$0	$0
Barnwell 45	$4,000	[illegible]	$1,320	$373	17.[illegible]	[illegible]	$129
Beaufort	$273,[illegible]	[illegible]	[illegible]	$24,122	16.[illegible]	[illegible]	$12,05[illegible]
Berkeley	$500,000	[illegible]	$116,500	$31,9[illegible]	11.[illegible]	[illegible]	$15,972
Calhoun	$15,000	[illegible]	$9,765	$2,681	32.[illegible]	[illegible]	[illegible]
Charleston	$64[illegible],909	[illegible]	$262,[illegible]	$7[illegible],971	20.[illegible]	[illegible]	[illegible]
Cherokee 1	$171,000	[illegible]	[illegible]	$13,269	[illegible]	[illegible]	[illegible]
Chester	[illegible]	[illegible]	$16,[illegible]	$4,510	18.[illegible]	[illegible]	[illegible]
Chesterfield	$4,[illegible]00	[illegible]	$1,377	$380	[illegible]	[illegible]	[illegible]
Clarendon 2	$1,000	51.[illegible]	$512	$168	[illegible]	[illegible]	[illegible]
Clarendon 3	$4,000	51.[illegible]	$2,06[illegible]	$566	[illegible]	$1,032	[illegible]
Colleton	$100,000	[illegible]	[illegible]	$12,730	[illegible]	[illegible]	[illegible]
Dillon 1	[illegible]	55.[illegible]	[illegible]	$887	[illegible]	[illegible]	[illegible]
Dillon 2	$0	[illegible]	$0	$0	[illegible]	$0	$0
Dillon 3	$0	[illegible]	$0	$0	[illegible]	$0	$0
Dorchester 2	$0	14.[illegible]	$0	$0	[illegible]	$0	$0
Dorchester 4	$3,100	[illegible]	[illegible]	$1,[illegible]	[illegible]	$2,19[illegible]	$601
Edgefield	$40,000	[illegible]	$17,3[illegible]	$4,392	[illegible]	$8,920	$2,4[illegible]
Fairfield	$0	[illegible]	$0	$0	17.[illegible]	$0	$0
Florence 1	$0	[illegible]	$0	$0	21.[illegible]	$0	$0
Florence 2	$30,000	[illegible]	$12,900	$3,537	[illegible]	[illegible]	$1,7[illegible]
Florence 3	$73,000	[illegible]	[illegible]	$11,987	[illegible]	$21,[illegible]	[illegible]
Florence 4	$29,056	59.[illegible]	$17,316	[illegible]	[illegible]	[illegible]	$2,[illegible]
Florence 5	$1,000	63.[illegible]	[illegible]	[illegible]	21.[illegible]	[illegible]	[illegible]
Georgetown	$7,000	43.[illegible]	$3,024	$829	21.[illegible]	$1,512	$415
Greenville	$571,[illegible]	20.0	$114,[illegible]1	$31,322	10.0	$57,116	$15,661
Greenwood 50	$139,[illegible]	31.[illegible]	[illegible]	$12,157	15.[illegible]	$22,187	$6,08[illegible]
Greenwood 51	$1,800	19.[illegible]	$351	$96	9.[illegible]	$176	[illegible]
Greenwood 52	$0	18.[illegible]	$0	$0	9.[illegible]	$0	$0
Hampton 1	$25,000	[illegible]	$12,71[illegible]	$3,425	[illegible]	$6,[illegible]	$1,7[illegible]
Hampton 2	$75,000	[illegible]	$55,873	$15,321	37.[illegible]	$27,933	$7,660
Jasper	$12,000	67.[illegible]	$8,064	$2,211	33.[illegible]	$4,032	$1,106
Kershaw	$0	24.[illegible]	$0	$0	12.[illegible]	$0	$0
Lancaster	$177,500	26.0	$46,150	$12,654	13.0	$23,07[illegible]	[illegible]
Laurens 55	$86,000	[illegible]	$21,[illegible]	$5,895	12.[illegible]	$10,750	$2,949
Laurens 56	$71,776	29.[illegible]	$21,[illegible]75	$5,8[illegible]	14.[illegible]	$10,[illegible]76	$2,933
Lee	$40,000	64.[illegible]	$25,800	$7,074	32.[illegible]	$12,900	$3,[illegible]
Lexington 1	$247,677	10.5	$26,006	$7,131	5.[illegible]	$13,003	$3,[illegible]
Lexington 2	$199,401	19.[illegible]	$38,285	$10,498	9.[illegible]	$19,1[illegible]	$5,269
Lexington 3	$52,000	37.[illegible]	$19,[illegible]96	$5,318	18.[illegible]	$9,[illegible]78	$2,[illegible]59
Lexington 4	$22,000	26.[illegible]	$5,396	$1,417	13.[illegible]	$2,963	$803
Lexington 5	$184,314	4.[illegible]	$7,762	$2,125	2.[illegible]	$3,[illegible]91	$1,064
Marion 1	$0	[illegible]	$0	$0	22.[illegible]	$0	$0
Marion 2	$0	51.[illegible]	$0	$0	25.[illegible]	$0	$0
Marion 3	$4,000	68.0	$2,720	$746	[illegible]	$1,360	$373
Marion 4	$3,000	59.1	$1,773	$486	29.[illegible]	$887	$243
Marlboro	$10,000	57.[illegible]	$5,730	$1,577	28.[illegible]	$2,873	$763
McCormick 1	$0	[illegible]	$0	$0	[illegible]	$0	$0
Newberry	$53,714	36.[illegible]	$19,[illegible]	$5,332	18.1	$9,7[illegible]	$2,566
Oconee	$198,100	18.[illegible]	$37,263	$10,212	9.[illegible]	$18,321	$5,105
Orangeburg 1	$5,000	58.0	$2,900	$795	29.0	$1,450	$398
Orangeburg 2	$4,000	78.[illegible]	$3,136	$860	39.[illegible]	$1,568	$430
Orangeburg 3	$20,000	68.6	$13,720	$3,762	[illegible]	[illegible]	$1,[illegible]
Orangeburg 4	$0	33.[illegible]	$0	$0	16.[illegible]	$0	$0
Orangeburg 5	$84,511	58.[illegible]	[illegible]	$13,[illegible]	29.[illegible]	$24,577	$6,766
Orangeburg 6	$4,760	50.[illegible]	$2,[illegible]9	$656	25.[illegible]	$1,200	$329
Orangeburg 7	$8,000	79.[illegible]	$6,376	$1,743	39.[illegible]	$3,185	$87[illegible]
Orangeburg 8	$10,000	47.[illegible]	$4,720	$1,294	23.[illegible]	$2,360	$64[illegible]
Pickens	$0	14.[illegible]	$0	$0	7.[illegible]	$0	$0
Richland 1	$905,765	45.[illegible]	$413,029	$113,[illegible]	22.[illegible]	$205,51[illegible]	$56,525
Richland 2	$259,000	13.0	$33,670	$9,[illegible]	6.[illegible]	$16,[illegible]35	$4,516
Saluda 1	$38,000	38.[illegible]	$14,706	$4,032	19.[illegible]	$7,[illegible]	$2,016
Spartanburg 1	$0	17.[illegible]	$0	$0	8.[illegible]	$0	$0
Spartanburg 2	$0	13.[illegible]	$0	$0	6.[illegible]	$0	$0
Spartanburg 3	$87,968	24.0	$21,112	$5,789	12.0	$10,556	$2,894
Spartanburg 4	$0	22.0	$0	$0	11.[illegible]	$0	$0
Spartanburg 5	$195,000	14.6	$28,470	$7,806	7.[illegible]	$14,[illegible]	$3,903
Spartanburg 6	$0	13.6	$0	$0	6.[illegible]	$0	$0
Spartanburg 7	$250,000	40.[illegible]	$100,500	$27,557	20.1	$50,250	$13,779
Sumter 17	$115,000	44.[illegible]	$50,715	$13,906	22.[illegible]	$25,[illegible]56	$6,953
Sumter 2	$0	43.[illegible]	$0	$0	[illegible]	$0	$0
Union	$60,000	33.[illegible]	$20,[illegible]	$5,5[illegible]	16.9	$10,110	$2,772
Williamsburg	$40,000	73.5	$29,[illegible]	$8,072	36.[illegible]	$14,720	$4,036
York 1	$0	25.1	$0	$0	12.[illegible]	$0	$0
York 2	$11,500	14.0	$1,610	$441	7.0	$805	$221
York 3	$145,000	20.[illegible]	$29,145	$7,992	10.1	$14,573	$3,996
York 4	$2,640	11.5	$304	$83	5.[illegible]	$152	$42
Total	$6,802,331		$2,152,315	$590,165		$1,076,157	$295,032

Note:
Free lunch percentage adjusted in column 6 to reflect 50% of the actual # of children participating in the Free Lunch program.

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ATTACHMENT 4

District Expenditures
Physical/Occupational Therapy

District	Total Expenditures	% In Free Lunch Prgm.	Est. Medicaid Expenditures	Estimated State Match	Adjusted % In Free Lunch	Est. Medicaid Expenditures	Estimated State Match
Aiken	$73,503	35.[illegible]	$17,437	$4,833	17.[illegible]	$2,314	$2,417
Allendale	$0	71.[illegible]	$0	$0	35.[illegible]	[illegible]	[illegible]
Anderson 2	$5,300	17.[illegible]	$998	$274	4.[illegible]	[illegible]	[illegible]
Anderson 3	$5,437	22.[illegible]	$1,303	$330	11.[illegible]	$601	$165
Anderson 4	$13,300	21.[illegible]	$2,[illegible]	$720	10.[illegible]	$1,423	$390
Anderson 5	$0	22.[illegible]	$0	$0	11.[illegible]	$0	$0
Bamberg 2	$0	71.[illegible]	$0	$0	35.[illegible]	$0	$0
Bamberg 1	$3,300	54.[illegible]	$2,060	$565	27.1	$1,030	$283
Barnwell 19	$0	59.[illegible]	$0	$0	29.[illegible]	$0	$0
Barnwell 29	$0	42.[illegible]	$0	$0	21.1	$0	$0
Barnwell 45	$4,170	34.[illegible]	$1,439	$394	17.[illegible]	$719	$197
Beaufort	$66,000	32.[illegible]	$21,[illegible]	$5,827	16.1	$10,[illegible]	$2,914
Berkeley	$80,000	23.[illegible]	$18,[illegible]	$5,111	11.[illegible]	$9,320	$2,[illegible]
Calhoun	$2,400	69.[illegible]	$1,[illegible]	$451	33.[illegible]	[illegible]	[illegible]
Charleston	$123,214	40.[illegible]	$50,[illegible]	$13,751	20.[illegible]	$25,07[illegible]	$6,[illegible]
Cherokee 1	$15,300	28.[illegible]	$4,245	$1,16[illegible]	14.[illegible]	$2,123	$582
Chester	$12,473	37.[illegible]	$4,[illegible]	$1,266	18.[illegible]	$2,309	$633
Chesterfield	$42,000	37.[illegible]	$15,[illegible]	$4,[illegible]	18.[illegible]	$7,[illegible]	$2,[illegible]
Clarendon 2	$6,000	51.[illegible]	$3,060	$839	25.[illegible]	$1,530	$419
Clarendon 3	$2,500	51.[illegible]	$1,[illegible]	$354	25.[illegible]	$645	$177
Colleton	$22,000	46.[illegible]	$10,[illegible]	$2,205	23.[illegible]	$5,115	$1,403
Dillon 1	$0	55.[illegible]	$0	$0	27.[illegible]	$0	$0
Dillon 2	$7,906	58.[illegible]	$4,[illegible]	$1,273	29.[illegible]	$2,320	$636
Dillon 3	$0	54.9	$0	$0	27.[illegible]	$0	$0
Dorchester 2	$54,111	14.[illegible]	$7,95[illegible]	$2,181	7.[illegible]	$3,977	$1,091
Dorchester 4	$2,252	54.[illegible]	$1,[illegible]	$334	27.[illegible]	$609	$167
Edgefield	$3,300	[illegible]	$1,[illegible]	[illegible]	22.[illegible]	$803	$220
Fairfield	$5,000	47.[illegible]	$2,[illegible]	$653	23.[illegible]	$1,190	$326
Florence 1	$40,000	34.[illegible]	$13,[illegible]	$3,[illegible]	17.[illegible]	$6,920	$1,[illegible]
Florence 2	$300	43.0	$129	$35	21.[illegible]	$65	$18
Florence 3	$4,000	58.[illegible]	$2,[illegible]	$639	29.[illegible]	$1,16[illegible]	$320
Florence 4	$3,481	66.[illegible]	$2,310	$628	33.[illegible]	$1,155	$317
Florence 5	$900	35.[illegible]	$320	$88	17.[illegible]	$160	$44
Georgetown	$23,000	43.[illegible]	$9,938	$2,726	21.[illegible]	$4,968	$1,362
Greenville	$255,724	20.0	$51,[illegible]	$14,026	10.0	$25,[illegible]	$7,012
Greenwood 50	$38,970	31.[illegible]	$12,297	$3,372	15.[illegible]	$6,149	$1,686
Greenwood 51	$6,000	19.[illegible]	$1,170	$321	9.[illegible]	$585	$160
Greenwood 52	$6,445	18.[illegible]	$1,179	$323	9.[illegible]	$590	$162
Hampton 1	$0	48.9	$0	$0	24.[illegible]	$0	$0
Hampton 2	$0	7[illegible]	$0	$0	37.[illegible]	$0	$0
Jasper	$3,000	67.[illegible]	$2,016	$553	33.[illegible]	$1,008	$276
Kershaw	$0	24.[illegible]	$0	$0	12.[illegible]	$0	$0
Lancaster	$51,500	26.[illegible]	$13,390	$3,672	13.0	$6,695	$1,836
Laurens 55	$12,000	25.[illegible]	$3,000	$823	12.[illegible]	$1,500	$411
Laurens 56	$15,000	29.[illegible]	$4,470	$1,226	14.[illegible]	$2,235	$613
Lee	$27,000	64.[illegible]	$17,415	$4,773	32.[illegible]	$8,708	$2,388
Lexington 1	$42,762	10.[illegible]	$4,490	$1,231	5.[illegible]	$2,245	$616
Lexington 2	$185,639	19.[illegible]	$35,[illegible]	$9,773	9.[illegible]	$17,821	$4,887
Lexington 3	$8,500	37.[illegible]	$3,171	$869	18.[illegible]	$1,585	$435
Lexington 4	$7,000	26.[illegible]	$1,876	$514	13.[illegible]	$938	$257
Lexington 5	$28,056	4.[illegible]	$1,178	$323	2.1	$589	$162
Marion 1	$6,000	44.[illegible]	$2,676	$734	22.[illegible]	$1,338	$367
Marion 2	$5,000	51.[illegible]	$2,565	$703	25.[illegible]	$1,283	$352
Marion 3	$0	68.0	$0	$0	34.0	$0	$0
Marion 4	$0	59.1	$0	$0	29.6	$0	$0
Marlboro	$7,500	57.[illegible]	$4,313	$1,182	28.[illegible]	$2,156	$591
McCormick 1	$852	53.1	$452	$124	26.[illegible]	$226	$62
Newberry	$18,380	36.[illegible]	$6,617	$1,814	18.1	$3,309	$907
Oconee	$32,300	18.[illegible]	$6,072	$1,665	9.4	$3,036	$833
Orangeburg 1	$0	58.0	$0	$0	29.0	$0	$0
Orangeburg 2	$1,500	78.[illegible]	$1,175	$322	39.[illegible]	$588	$161
Orangeburg 3	$16,000	68.[illegible]	$10,976	$3,010	34.[illegible]	$5,488	$1,505
Orangeburg 4	$0	33.[illegible]	$0	$0	16.[illegible]	$0	$0
Orangeburg 5	$7,426	58.[illegible]	$4,[illegible]	$1,199	29.[illegible]	$2,185	$599
Orangeburg 6	$901	50.[illegible]	$45[illegible]	$125	25.[illegible]	$227	$62
Orangeburg 7	$6,000	79.[illegible]	$4,782	$1,311	39.[illegible]	$2,391	$656
Orangeburg 8	$0	47.[illegible]	$0	$0	23.[illegible]	$0	$0
Pickens	$0	14.[illegible]	$0	$0	7.[illegible]	$0	$0
Richland 1	$141,316	45.[illegible]	$64,[illegible]	$17,669	22.[illegible]	$32,[illegible]	$8,835
Richland 2	$26,000	13.0	$3,380	$927	6.[illegible]	$1,690	$464
Saluda 1	$13,000	38.[illegible]	$5,031	$1,380	19.[illegible]	$2,516	$690
Spartanburg 1	$0	17.[illegible]	$0	$0	8.[illegible]	$0	$0
Spartanburg 2	$2,602	13.[illegible]	$349	$96	6.[illegible]	$174	$48
Spartanburg 3	$0	24.0	$0	$0	12.0	$0	$0
Spartanburg 4	$0	22.0	$0	$0	11.0	$0	$0
Spartanburg 5	$5,500	14.[illegible]	$803	$220	7.[illegible]	$402	$110
Spartanburg 6	$0	13.[illegible]	$0	$0	6.[illegible]	$0	$0
Spartanburg 7	$4,000	40.[illegible]	$1,608	$441	20.1	$804	$220
Sumter 17	$19,000	44.1	$8,379	$2,298	22.1	$4,190	$1,149
Sumter 2	$0	48.[illegible]	$0	$0	24.[illegible]	$0	$0
Union	$14,000	33.[illegible]	$4,713	$1,294	16.9	$2,359	$647
Williamsburg	$16,000	73.[illegible]	$11,775	$3,229	36.[illegible]	$5,[illegible]	$1,514
York 1	$3,030	25.1	$761	$209	12.[illegible]	$380	$104
York 2	$3,510	14.0	$491	$135	7.0	$246	$67
York 3	$65,000	20.1	$13,065	$3,582	10.[illegible]	$6,533	$1,791
York 4	$605	11.[illegible]	$70	$19	5.[illegible]	$35	$10
Total	$1,722,265		$515,735	$141,420		$257,877	$70,710

Note:
Free lunch percentage adjusted in column 6 to reflect 50% of the actual # of children participating in the free lunch program.

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APPENDIX D

1) DHEC - SDE
   Member of Agreement
2) Parent Survey

APPENDIX

MEMORANDUM OF AGREEMENT
BETWEEN
THE SOUTH CAROLINA DEPARTMENT OF EDUCATION
OFFICE OF PROGRAMS FOR THE HANDICAPPED
AND
THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTR
BABYNET PROGRAM, PART H, P.L. 99-457

Purpose

The purpose of this agreement is to address planning and implementation activities for early intervention and preschool programs developed pursuant to Public Law 99-457 and Title 59 of th 1976 Code, as amended by the addition of Chapter 137.

Goals

The goals of this Memorandum of Agreement are:

(A) To determine which services can be provided jointly and collaboratively to the above specified children who are of mutual concern to both agencies;

(B) To encourage consultation and collaboration in areas of program planning;

(C) To provide information concerning children with disabilities on a "need to know" basis in accordance with State law and each Agency's regulations regarding confidentiality;

(D) To actively collaborate in areas of program development and relevant preparation of staff for implementation of program activities;

(E) To ensure a smooth and effective transition of children from the Early Intervention Program to LEA programs for preschool children with disabilities;

(F) To define financial responsibilities of the agencies for serving children ages birth through two.

(G) To define arbitration procedures to resolve interagency/intragency disputes.

Joint Roles/Responsibilities of Agencies

Under this agreement, the South Carolina Department of Health and Environmental Control, lead agency for Part H, P.L. 99-457, and the South Carolina Department of Education agree to perform the followi

1. Participate in interagency planning for the development of the early intervention and transition to preschool programs.

2. Cooperate in screening, child find and public awareness activitie at the state and local level to locate, identify and evaluate children with disabilities ages birth through two.

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3. Participate in interagency efforts to recommend standards for early intervention and preschool programs, multidisciplinary assessment, case management and individualized family service plans. Standards for assessment will address the mutuality of the two agencies' assessment procedures and acceptance and sharing of assessment information.

4. Participate in and share interdisciplinary staff development and parent training resources.

5. Facilitate transition planning from early intervention to preschool programs and the development of individualized education plans (IEP), as appropriate.

6. Facilitate the development of interagency agreements between local education agencies and local BabyNet early intervention programs when appropriate to maximize funds and programs/services for preschool children with disabilities.

Under this agreement, the South Carolina Department of Health and Environmental Control and the South Carolina Department of Education agree to carry out the following with regard to planning transition from BabyNet to the preschool program:

1. BabyNet will initiate planning for transition from the early intervention to the preschool program when the child reaches his second birthday or as soon as possible thereafter.

2. Six months prior to the child's third birthday, BabyNet Family Service Coordinator (FSC) will contact the Local Education Agency, Coordinator of Programs for the Handicapped, or designee, the child's parents/legal guardians and other persons as determined by the FSC and the family. A meeting will be scheduled and notification will be made by BabyNet in writing and by telephone when possible.

   The objectives of the meeting are to:

   a. Familiarize school personnel with the child and family needs and services currently being provided.

   b. Provide the family with an overview of LEA preschool programs, services and eligibility criteria.

   c. Recommend school readiness activities for the child and identify services for which the child will/will not be eligible through the LEA. The South Carolina Department of Health and Environmental Control FSC will use this information in planning future services and in developing a community transition plan for securing services for children not eligible for LEA preschool handicapped programs.

   d. Describe the differences between programs and services provided through the BabyNet Program and those provided by preschool programs for children with disabilities.

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e. Provide the LEA with the child's records so that a determination can be made regarding the need for additional tests or repetition of tests based upon program entry requirements of the State Board of Education. The agencies will work cooperatively to eliminate duplication of testing when possible. This information can also be used by LEA to plan services.

f. Incorporate a transition plan into the Individual Family Service Plan (IFSP) in accordance with recommended procedur

The LEA Coordinator of Programs for the Handicapped, or designee, shall invite the BabyNet FSC and other appropriate early interventi staff to participate in development of the individualized education program for children who will receive special education and related services.

Financial Responsibilities

Under this agreement, BabyNet and the South Carolina Department of Education have the following financial responsibilities for childre ages birth through two.

BabyNet has financial responsibility for assessment and case management services for children ages 0-2 who are eligible for Baby services pursuant to program eligibility. All available state and federal resources will be exhausted for these services prior to the use of federal funds appropriated for PL 99-457, Part H.

The South Carolina Department of Education through the local educat agencies (LEAS) has financial responsibility to continue to provide child find activities for children 0-2 consistent with Federal law a the procedures set forth by each LEA in its P.L. 94-142 application, as approved by the Office of Programs for the Handicapped. In addition, they will provide appropriate staff to implement transitio planning.

Resolution of Disputes

Under this agreement, the South Carolina Department of Health and Environmental Control and the South Carolina Department of Education agree to the following procedures to resolve inter and intraagency disputes regarding children ages birth through two.

1. In all interagency disputes between the local health department a LEA, documented efforts must be made to resolve disagreements at the local level.

2. When disputes cannot be resolved at the local level, a complaint will be initiated by the aggrieved agency to the Director of the Office of Programs for the Handicapped or the Director of the BabyNet Program (or their designees), as appropriate.

3. When disputes cannot be resolved between these State Agencies, the

agency that raised the complaint will refer the complaint to the Children's Case Resolution system (CCRS).

4. Resolution of intraagency disputes shall follow procedures 1, 2 and 3 above, within the single agency.

Due Process and Confidentiality

During the conduct of this Agreement, DHEC/BabyNet and the South Carolina Department of Education/Local School Districts shall follow State and Federal laws governing confidentiality and due process regulations of the State Board of Education and the policies and procedures on confidentiality of BabyNet and its due process guidelines for early intervention program.

Implementation/Termination of Agreement

This Memorandum of Agreement shall become effective upon signatures of the Chief Administrative Officers of the South Carolina Department of Education and the South Carolina Department of Health and Environmental Control and shall remain in effect unless terminated by either the State Superintendent of Education or the Commissioner of the Department of Health and Environmental Control. Unilateral termination shall require a thirty (30) day written notice. Bilateral termination shall be upon joint dissolution of this agreement.

Recommended by:

Robert S. Black   Nov. 5/90
Robert S. Black, Director   Date
Office of Programs for the Handicapped

12/04/90
Linda Price, Director   Date
Children's Rehabilitative Services

Approved by:

Michael D. Jarrett   12/04/90
Michael D. Jarrett, Commissioner   Date
South Carolina Department of Health and
Environmental Control

Charlie G. Williams   12/5/90
Charlie G. Williams, State Superintendent of Education   Date
South Carolina Department of Education

SURVEY -- Please Return

What positive efforts do you see your local district making to provide services to your district's 3-5 year old handicapped children?

What barriers do you see in your district's efforts to provide services for this population of children?

Do you feel the services your child is offered are appropriate to his or her needs?
If not, why?

Describe your district's overall attitude towards your child?

Do you believe there is a strong commitment on the part of the local school district and the State Department of Education to provide these services?

What would you like to see improved?

How would you feel about using "due process" to secure your child's educational rights? Why?

Any other comments:

APPENDIX E

Foster Care Parent Training

SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES
Post Office Box 1520, Columbia, South Carolina 29202-1520
Public Information Telephone 734-6179 Fax Number 734-5597

J. SAMUEL GRISWOLD, PH. D.
INTERIM COMMISSIONER

April 29, 1992

Mr. David M. Harvin
110 Gaillard Road
Winnsboro, SC 29180

Dear Mr. Harvin:

Thank you for your letter of March 24, 1992 concerning Public Law 99-457. To confirm conversations you have had with staff, we have an ongoing task force assisting with plans for a fall conference on foster care/licensing issues.

I have requested that Ms. Holland-Davis bring your request to this task force so that a workshop can be developed and presented at the National Conference on therapeutic foster care being planned for this fall in Charleston, SC. A foster parent track is included. In addition, this workshop can be used at our next State Foster Parent Conference.

Your assistance in ensuring that a video recording be made would also ensure that all 46 counties have access to this information. We have done a similar format with independent living services and found it to be quite successful.

I appreciate your bringing this recommendation to my attention and assure you that we are anxious to work with the Department of Education in this matter.

Sincerely,

Sam Griswold

J. Samuel Griswold, Ph.D.
Interim Commissioner

JSG/fhs

ACCREDITED
COUNCIL ON ACCREDITATION OF SERVICES FOR FAMILIES AND CHILDREN, INC.

APPENDIX F

IHE Teacher Training Survey

Status of Teacher Training in Preschool Special Education (Children Ages 3-5 years)

February, 1990

College/University	Degree Program	Certification Track	Coursework Available
Central Wesleyan College	No plans at present	Anticipates developing certification track.	Will make every effort to offer the 6 hours as Preschool Handicapped steering committee has recommended.
The Citadel	(see MUSC)	(see MUSC)	Currently offers 9 hours. Could also modify Special Education P.E. class for emphasis on young child. Submitted a federal grant proposal with MUSC and College of Charleston for summer institute (9 hrs.) to train teachers.
Clemson	No plans at present	No plans at present	Has offered an "introductory" course funded by SDE. Will be responsive to the needs of the area for coursework.
Columbia College	No plans at present	No plans at present but would establish if SDE develops Early Childhood Special Education credential.	Currently offers 6 hours.

Converse College	No plans at present but would consider establishing if SDE develops Early Childhood Special Education credential.	No plans at present but would consider establishing if SDE develops Early Childhood Special Education credential.	None at present
College of Charleston	(see MUSC)	(see MUSC)	Currently offers 9 hours when enrollment is sufficient for each course. ~~Submitted a federal grant proposal with The Citadel and MUSC for a summer institute (9 hrs.)~~
Francis Marion College	No plans at present	If SDE develops certification credential in Early Childhood Special Education will consider developing a certification track.	Plans to begin offering 6 hrs.
Furman	Yes (9 to 10 graduates per year)	Can offer this if SDE develops certification credential in Early Childhood Special Education.	Has offered an "introductory" course funded by SDE.
Medical University of South Carolina	No plans at present but will consider establishing graduate program in concert with The Citadel and College of Charleston.	No plans at present but will consider establishing in concert with The Citadel and College of Charleston.	Submitted a federal grant proposal with The Citadel and College of Charleston for a summer institute (9 hours).

Presbyterian College	No	No	Not anticipated since special education faculty is so small.
South Carolina State College	No plans at present	If SDE develops certification credential for Early Childhood Special Education, certification track will be developed.	Currently offers 12 hours. Also has offered an "introductory" course funded by SDE.
University of South Carolina	Offers an M.Ed. in Generic Special Education with emphasis on Preschool Handicapped. Will rename degree Early Childhood Special Education.	Would be available if SDE establishes Early Childhood Special Education certification credential.	Currently offers 15 hours. Also has offered a 12 hour sequence funded by SDE.
Winthrop College	No plans at present	Will be available if SDE develops a certification track.	Currently offers 9 hours (3 hrs. is in infants and toddlers.) Also has provided "introductory" cause funded by SDE.

APPENDIX G

Ruling Pearson Case
Section 680

Further, in order to receive Federal financial assistance under Part B, a State must demonstrate that it has a policy in effect which ensures: (1) that all children with disabilities who are in need of special education and related services are identified, located and evaluated; and (2) the right to FAPE for all children with disabilities within its jurisdiction.[1] *See* 20 U.S.C. § 1412 and 34 CFR §§ 300.121(a) and 300.128(1).

I hope that this information is helpful. If I can be of further assistance, please let me know.

Judy A. Schrag, Ed.D.
Director
Office of Special Education Programs

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[1] *See Plyler v. J. and R. Doe v. Certain Named and Unnamed Undocumented Alien Children*, 102 S.Ct. 2382 (1982) (Texas statute which authorized withholding of funds to local school districts for the education of children not legally admitted into the State, and the denial of enrollment to such children, violated the Equal Protection Clause of the Fourteenth Amendment. The Court noted that the Equal Protection Clause of the Fourteenth Amendment is applicable "to all within a State's boundaries, and to all upon whom the State would impose the obligations of its laws." *Id.* at 2393); *Board of Education of the Hendrick Hudson Central School District, Westchester County v. Rowley*, 102 S.Ct. 3034, 3038 (1982) (interpreting a State's obligation to provide FAPE under Part B as encompassing all children "within its [the State's] borders);" *Sonya C. v. Arizona School for the Deaf and Blind*, 743 F.Supp. 700 (D. Ariz. 1990) (child with disabilities born and residing in Arizona with guardians was entitled to FAPE although her parents were residents of Mexico. Court noted that under Part B, child, who was presently living in Arizona, was entitled to FAPE regardless of her residency status).

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1 ECLPR ¶ 165

Ms. Marilyn Pearson, Specialist
Special Education/Federal Programs
Office of Public Instruction
State Capitol
Helena, MT 59620

Digest of Inquiry
[Date Not Provided]

- May mediator fees be reimbursed from the Part B formula-grant funds distributed to a state educational agency?

Digest of Response
(August 7, 1991)

Mediator Fees May Be Reimbursed from Discretionary Funds

Under Reg. 300.370(b)(2), mediation may be considered a support service for the purposes of implementing the Part B requirements; therefore, reimbursement of mediator fees from a state educational agency's discretionary funds is permissible under Part B.

Text of Inquiry

This letter is in response to a question we discussed at the State Plan meeting on March 12th in Washington, DC. The question relates to reimbursement for mediators who assist schools and parents in reaching resolution on issues related to the implementation of IDEA. You suggested that I send an informal request to you for response. Consequently, the letter!

Please advise me on the following:

> It is our interpretation that reimbursement of mediatory fees through provision of discretionary grant funds to LEAs is an acceptable form of technical assistance.

Is this interpretation correct?

Your prompt response to this question will be very helpful. Please feel free to call me at (406) 444-4428 or if you wish, fax a response. My fax # (406) 444-3924.

Thank you for your assistance.

Text of Response

This letter is in response to your inquiry dated April 24, 1991. In your letter, you requested advice on the following policy statement:

> It is the [State's] interpretation that reimbursement of mediatory fees through the provision of discretionary grant funds to LEAs is an acceptable form of technical assistance. Is this interpretation correct?

Policy staff from the Office of Special Education Programs (OSEP) have analyzed your inquiry, and the following summary describes OSEP's position.

Provisions governing the use of Federal formula-grant funds distributed to state educational agencies (SEAs) for use in providing special education services to students with disabilities can be found in the Education Department General Administrative Regulations at 34 CFR § 76.530 (Subpart Q of 34 CFR Part 74, reissued as OMB Circular No. A-87), and in 34 CFR §§ 330.360 and 330.370, including 34 CFR §§ 330.620 and 330.621 of Part B of the Individuals with Disabilities Education Act (Part B). Copies of these "Use of Funds Regulations" are enclosed for your review. Funds available to SEAs through Federal formula grants must be used in accordance with the allowable-cost principles defined in the *Federal Register*, section on "Notices," Volume 46, Number 18, dated Wednesday, January 28, 1981. Direct, as well as support services related to providing a free appropriate public education for students with disabilities, are defined at 34 CFR § 300.370 for the use of State agency allocations of funds under Part B.

A review of the regulations governing the allowable expenditures of funds available to SEAs through Federal formula grant programs does not identify mediation specifically as an allowable expenditure of these Federal funds. However, mediation can be considered as a support service in the implementation of the requirements of Part B. *See* 34 CFR § 300.370(b)(2).

The use of mediation as an intervening step prior to initiating a formal due process hearing is noted in a comment undue 34 CFR § 300.506. It should also be noted that this process is not required by statute or regulations, but it may be useful in resolution of differences between parents and agencies prior to the initiation of more formal dispute resolution procedures.

In summary, the use of discretionary grant funds for reimbursement of mediatory fees through local educational agencies is a permissible expenditure under the Federal regulations governing allowable costs from formula grant funds. Therefore, it would be appropriate for the SEA to approve the use of Part B discretionary funds for this purpose.

I hope you will find this information responsive to your inquiry.

Judy A. Schrag, Ed.D.
Director
Office of Special Education
Programs

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1 ECLPR ¶ 166

Mr. David D. Wilson, President
Vermont Independent Schools Association
Long Trail School
Dorset, VT 05251

Digest of Inquiry
(March 25, 1991)

- Do private school operators have any flexibility in designing the personnel standards for their employees who provide special education services to children with disabilities who are publicly-placed at their schools?

- Is licensure the only acceptable personnel standard for special educators in private schools?

- When a state educational agency consults with, and seeks the participation of, the representatives of private schools in developing personnel standards requirements applicable to the private schools, what degree of consultation and participation is required?

- Are public schools, but not private schools, allowed to use unlicensed and unqualified paraprofessionals to provide direct special education services?

Digest of Response
(August 5, 1991)

Personnel Standards Requirements Apply Equally to Private Schools

A state educational agency must ensure that private schools where children with disabilities are placed at public expense meet the Part B personnel standards requirements of Regs. 300.380(b) and 300.153. Private schools are permitted flexibility in designing personnel standards to the extent that the Part B requirements also provide flexibility to state and local educational agencies.

Alternative to Licensure May Be Developed

A state educational agency may establish an alternative route to licensure for meeting personnel qualification requirements of special educators, but such an alternative must be available to personnel in both public and private schools.

Within Part B Framework, Consultation Process Is Encouraged

The Part B regulations do not define the terms "consultation" or "participation," but OSERS encourages state educational agencies to engage in active participation and consultation with private school representatives in developing personnel standards requirements. Such a consultation process, however, may not result in personnel standards for private schools that override the Part B requirements.

Unlicensed Paraprofessionals May Not Provide Direct Services

Unqualified paraprofessionals may not directly provide special education services in either public or private schools; however, unlicensed paraprofessionals and aides may assist in the provision of special education services if they are under the supervision of special education personnel who meet the applicable state qualification standards.

Text of Inquiry

I am enclosing for your review a copy of the proposed Vermont Special Education Approval Standards for Independent Day or Residential Schools. The regulations have been submitted to the Vermont State Board of Education and a 90 day oral and written comment period has ended. The final regulations will be submitted to the State Board of Education on April 15, 1991. They will become State Regulations on July 1, 1991.

In reviewing the regulations, I direct your attention to regulation 2228.3.1 which requires state licensure for personnel who directly provide special education or those who supervise the provision of special education. The regulation states that "an independent school shall satisfy the State Licensure require-

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"(1) for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources, and

"(2) to expand and improve on services for handicapped infants and toddlers that are otherwise available.

"PROCEDURAL SAFEGUARDS

and local nments. C 1480. "Sec. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

"(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

lentiality. "(2) The right to confidentiality of personally identifiable information.

"(3) The opportunity for parents and a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

"(4) Procedures to protect the rights of the handicapped infant and toddlers whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

"(5) Written prior notice to the parents or guardian of the handicapped infant or toddler whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the handicapped infant or toddler.

"(6) Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

"(7) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or if applying for initial services shall receive the services not in dispute.

"PAYOR OF LAST RESORT

1481. "Sec. 681. (a) Nonsubstitution.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

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"(b) Reduction of Other Benefits.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for handicapped infants and toddlers) within the State. 42 USC 701. 42 USC 1396.

"STATE INTERAGENCY COORDINATING COUNCIL

"Sec. 682. (a) Establishment.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of 15 members. 20 USC 1482.

"(2) The Council and the chairperson of the Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

"(b) Composition.—The Council shall be composed of—

"(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

"(2) at least 3 public or private providers of early intervention services,

"(3) at least one representative from the State legislature,

"(4) at least one person involved in personnel preparation, and

"(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families and others selected by the Governor.

"(c) Meetings.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) Management Authority.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to hire staff, and obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) Functions of Council.—The Council shall—

"(1) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

"(2) advise and assist the lead agency in the preparation of applications and amendments thereto, and

Report. "(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for handicapped infants and toddlers and their families operated within the State.

APPENDIX H

1) Training for Hearing Officers
2) Extended School Year
   Proviso
3) Extended School Year
   Pilot Report

subject only to judicial review, and any action directed by the hearing officer must be initiated immediately.

Hearing Officers

A. Procurement

(1) The local educational agency or other agency shall procure persons to serve as impartial hearing officers for due process hearings conducted at the local level.

A list of persons serving as hearing officers must be maintained, including a statement of the qualifications of each person who serves.

(2) The State educational agency shall procure persons to serve as impartial state hearing officers to review appeals to the State educational agency resulting from hearings conducted at the local level.

The State Superintendent of Education shall appoint State hearing officers to serve in this capacity and not to exceed a period of four (4) consecutive years. However, such persons may be re-appointed at the State Superintendent's discretion.

A list of persons serving as hearing officers must be maintained, including a statement of the qualifications of each person who serves.

B. Qualifications (Local and State Hearing Officers)

(1) A person serving as a hearing officer must be at least twenty-one (21) years of age and be a high school graduate or hold an equivalent credential.

(2) A person serving as a hearing officer will be selected without regard to race, sex, creed or handicapping condition.

(3) A person serving as a hearing officer must be unbiased toward any party involved in the hearing.

(4) A person serving as a hearing officer must have no personal or professional interest which would conflict his/her objectivity in the hearing.

(5) A person serving as a hearing officer must not be an officer, agent, school board official or an employee of a public agency which is involved in the education or care of the child. (A person is not an employee of the public agency because he/she is paid to serve as a hearing officer).

C. Training

The State educational agency will make training available for hearing officers. The training will include a review of federal/state statutes and regulations for the provision of a free appropriate public education to handicapped children, an overview of perti-

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nent litigation, and detailed information regarding procedures prior to, during and after a due process hearing.

K. Policies for Surrogate Parents.

A. Definitions

(1) Surrogate Parents

A surrogate parent is a person appointed to act in place of parents when a child's parents or guardians are not known, cannot be located or when the child is a ward of the state as defined herein (Section B(4)(a)).

(2) Guardian

(a) For purposes of this section, the term "guardian" refers to private individuals who have been given the legal custody of a child. If a child is represented by such a person, no surrogate parent is needed.

(b) In cases where children are assigned a legal guardian who is an employee of the state and such individual is appointed because of the position he holds or if he/she exercises the rights of a guardian as a part of this job, a surrogate parent must be appointed for the child.

(3) Foster Parent

Foster parents, for purposes of this section, are individuals assigned by certain state or local agencies to serve as the custodian for a child. A foster parent may volunteer to serve as the surrogate parent for a foster child, provided that he/she is acting as a private citizen and not as part of his/her duties as a foster parent.

(4) Ward of the State

(a) For the purposes of this section, a child is a ward of the state when the state has assumed legal responsibility to make decisions concerning the child's education under State Law. Under such circumstances, a surrogate parent must be appointed.

(b) If, however, the state is the custodian of the child, but the parent retains the right to make decisions concerning education, the child is not considered to be a ward of the state. In this instance, a surrogate parent would not be appointed unless it is documented that the parents cannot be located.

B. Determining the need for a surrogate parent.

(1) Any employee of a local educational agency or other agency, State Education Agency, residential school or hospital, any physician, any judicial officer, or any other person whose work involves education or treatment of children, who

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SECTION 28

STATE EDUCATION DEPARTMENT

28.114. From the General Funds provided herein, $60,000 shall be directed to a two year pilot project for an extended school year program for handicapped children. Chesterfield, Cherokee and Beaufort school districts shall participate in the pilot project.

The Office of the Handicapped, State Department of Education shall develop procedures for the placement of a handicapped pupil in an extended school year program. The procedures must be consistent and applicable to the entire state. Such procedures shall be documented in the pupil's individualized education program. An extended school year shall be provided for a minimum of 20 instructional days, including holidays.

An Extended School Year Oversight Committee shall meet quarterly to review pilot project information and advise in regard to the project implementation. The Committee shall consist of the following representatives: Office of the Handicapped, State Department of Education, S. C. Protection and Advocacy for the Handicapped, the Legislative-Governor's Committee on Mental Health and Mental Retardation and Chesterfield, Cherokee and Beaufort school districts.

Participating school districts are required to submit quarterly data reports documenting the cost of extended school year programs. The reports shall be submitted to the Legislative-Governor's Committee on Mental Health and Mental Retardation.

The Office of the Handicapped, State Department of Education is required to submit a quarterly assessment of the pilot project progress and regular updates on development of procedures for placement. They shall also submit a final report to the Legislative-Governor's Committee on Mental Health and Mental Retardation in regard to procedures and cost of statewide application of an extended school year for handicapped children.

A REPORT

TO

THE LEGISLATIVE-GOVERNOR'S COMMITTEE ON MENTAL HEALTH AND MENTAL RETARDATION

ON

THE EXTENDED SCHOOL YEAR PILOT PROJECT

Required by Temporary Proviso to the
General Appropriations Bill 1990-91

October 1, 1991

South Carolina Department of Education
Programs for the Handicapped

Barbara S. Nielsen
State Superintendent of Education

EXTENDED SCHOOL YEAR PILOT PROJECT

Final Report

to

Legislative-Governor's Committee on Mental Health
and Mental Retardation

Introduction

During June of 1990, the South Carolina General Assembly passed a temporary proviso as a part of the General Appropriations Bill 1990-91 to establish a two-year pilot project for an extended school year program for handicapped children. The proviso stated that Beaufort, Cherokee and Chesterfield school districts participate in the pilot project. A copy of the proviso is included in Appendix A.

The Office of Programs for the Handicapped, South Carolina Department of Education, was directed to develop procedures for the placement of a handicapped child into an extended school year program. In addition, an Extended School Year Oversight Committee was formed and has met seven (7) times since July, 1990. Representation on this committee was again spelled out in the proviso.

As this issue has the potential for greatly impacting all school districts within the state, an invitation was issued by the Office of Programs for the Handicapped to several other districts in the state offering the opportunity to have a representative from the district participate in the writing of the procedures to be utilized for determining which students shall be placed in extended school year programs. These districts were selected on the basis of their previous involvement with the provision of extended school year services or because written procedures had been developed within the district concerning extended school year services.

A listing of the committee members follows:

EXTENDED SCHOOL YEAR COMMITTE MEMBERS

Oversight Committe Members

Joy Sovde, Assistant Director
South Carolina Protection & Advocacy
System for the Handicapped, Inc.
3710 Landmark Drive, Suite 208
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Lisa Hopper, Director of Research
Joint Legislative-Governor's Committee on
Mental Health and Mental Retardation
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Don Wixted, Director, Special Services
Beaufort County School District
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Beaufort, South Carolina 29901-0309

Connie Prozny, Director, Special Services
Cherokee County School District
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Gaffney, South Carolina 29342-0460

Marilyn Martin, Director
Programs for Exceptional Children
Chesterfield County School District
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Chesterfield, South Carolina 29709

Beth Lowman, Consultant, Psychological Services
Office of Programs for the Handicapped
South Carolina Department of Education
100 Executive Center Drive
Santee Building, Suite 210
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Resource Committee Members

Gloria Heatley, Coordinator
Camp Summer Day Program
Calhoun County School District
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St. Matthews, South Carolina 29135

Dianne Irvin, Coordinator
Program Audit/Curriculum
Charleston County School District
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Charleston, South Carolina 29401

Webb Daniel, Director, Special Services
Dorchester School District Two
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Bob King, Coordinator, Special Education
School District of Greenville County
Post Office Box 2848, 301 Camperdown Way
Greenville, South Carolina 29602

Bob Hatchette, Director, Special Services
School District Five of Lexington and Richland Counties
Box 938
Ballentine, South Carolina 29002

Carolyn Tippins, Administrative Consultant
Richland School District One
1225 Oak Street
Columbia, South Carolina 29204

Gwen Kodad, Director, Special Services
York School District Three
Post Office Drawer 10072
Rock Hill, South Carolina 29730

Concept of Extended School Year

Public Law 94-142, The Education of All Handicapped Children Act, requires that each handicapped child have available a free appropriate public education. The term "free appropriate public education" refers to special education and related services which are specifically designed to meet the unique needs of a handicapped child and are provided in accordance with the Individualized Education Program. The emphasis of this legislation is on the individual needs of handicapped children.

As a result, courts have consistently held that any state or local policy which automatically limits the school year for handicapped children to a traditional nine-month period or 180 days is inconsistent with the intention of Public Law 94-142. Therefore, in order for some handicapped children to receive the free appropriate public education they are entitled to, they require what is referred to in the literature as an Extended School Year.

School districts throughout the state have historically offered summer school programs. These programs are generally characterized as voluntary, tuition-based and offered at a district's discretion. Summer school programs typically include enrichment activities, remediation programs, vocational activities, and interventions with high-risk students. However, these programs should not be confused with Extended School Year services which are required to meet the unique needs of special education students.

In an attempt to clarify the distinction between summer school programming and extended school year services, Michael A. Middleton, Director of the Division of Policy and Procedures for the Office of Civil Rights, wrote the following statement in a letter in May of 1978:

> "We recognize that summer schools traditionally serve a special purpose and do not duplicate the academic or vocational education programs given during the regular year. A school is not therefore required to duplicate the special academic or physical education programs for handicapped students offered during the regular year in the summer. Further, not every special course that may be available for handicapped children during the regular year must be provided in the summer just because one or more special courses are offered. The selection of special courses for handicapped children should be made on the same basis that course offerings for nonhandicapped children are selected. We assume that summer school offerings are selected on the basis of some objective showing of need. Section 504 and Public Law 94-142 do, however, require school districts to use the same standards and methods for placement for both the regular school terms and the summer sessions. Handicapped children must be included in any courses open to nonhandicapped students. For example, if a district offers typing instruction in summer school, it must be prepared to adapt equipment and teaching methods for blind or deaf students who wish to enroll."

Such rights as a handicapped student might have to summer school programming are more likely to arise under Section 504 than under Public Law 94-142 and would be tied to the type, level and age groups for which summer programming is electively provided to regular students. Thus, a district that provides behind-the-wheel driver education to 16-year-olds does not obligate itself to provide LD programming for 6-year-olds, but must insure that an "otherwise-qualified" handicapped 16-year-old student (i.e., meets the criteria for the course) will have the same (or equivalent) opportunity to participate as the 16-year-old nonhandicapped student. If the district offers a wide range of programming to regular students, it must, as a general rule, make equivalent sorts of programming available to handicapped students. If the district offers only compensatory or enrichment programs for regular students, their programming decisions for handicapped students should also reflect this.

Extended School Year services may include traditional summer school activities; however, Extended School Year services are mandated, are part of a student's Individualized Education Program, and must be offered at no expense to the parents. Extended School Year services must include the continued provision of special education and related services when required for a particular student. The determination of whether a student requires an Extended School Year must be made by a multidisciplinary team and is based on the individual needs of the student as reflected in the goals and objectives of the Individualized Education Program.

Although all special education students must be considered for Extended School Year services, not all students will required an Extended School Year program. Just as differences exist among non-handicapped children, children with disabilities also exhibit variance in rate of learning, regression, recoupment and other factors. Therefore, it is also not possible to state that all handicapped children with a particular disability or level of performance will automatically qualify for Extended School Year services. This decision, along with the amount and kind of programming needed, must be made on an individual basis.

If, for some reason, the parents and the agency cannot reach agreement regarding the provision of Extended School Year services, the parent or the agency may request an impartial due process hearing. A hearing may be held on any matter relating to the identification, evaluation or placement of a child or the provision of a "free appropriate public education." An impartial hearing officer presides over any such hearing and issues a decision. An appeal of the local decision may be directed to the South Carolina Department of Education for administrative review. The decision of this review officer is final unless either party chooses to bring civil action and pursue the matter in court.

Summary of Extended School Year Oversight Committee Activities

The Extended School Year Oversight Committee (Oversight Committee) began its task as outlined by the proviso on August 1, 1990, with an introductory and planning meeting. The Oversight Committee continued to meet periodically between that time and September 6, 1991, for a total of seven (7) meetings. Representatives from the three (3) pilot districts, Beaufort, Cherokee and Chesterfield, and Ms. Beth Lowman from the Office of Programs for the Handicapped also met additional times with the most recent meeting held on September 24, 1991.

Early in the schedule, the Oversight Committee reviewed literature and materials from other states and heard presentations regarding legal aspects of extended school year services. With that background members of the Oversight Committee addressed the task of developing procedures which would be utilized by the pilot districts during the 1990-91 school year. Draft procedures and necessary forms were produced by the members and distributed by Ms. Lowman. After trial use and review, the final draft was completed. An explanation and copies of procedures and forms are presented in Appendix B and within the district reports section of this document.

A central issue which entailed much discussion and legal, as well as State Department of Education, comment to the Oversight Committee, was the development of a standard definition of extended school year services. The Oversight Committee members felt that a clear definition was critical to the process and provision of services. Consensus was reached regarding the final definition as presented here:

> General Definition/Purpose
>
> Extended School Year is any individualized instructional program and/or related service which is extended beyond the regular 180 day school year for pupils with disabilities who are enrolled in special education. The provision of ESY services is based on the individual educational plan requirements of Public Law 94-142, subsequent amendments (such as, Public Law 101-476, Individuals with Disabilities Education Act), and section 504 of the 1973 Vocational Rehabilitation Act, and is determined on a case-by-case basis.
>
> The purpose of ESY services is to ensure that the child derives meaningful educational benefit and/or to forestall serious regression of previously learned skills. The extended program is designed for the purpose of maintaining each pupil's mastered competencies in critical skills areas as determined by the pupil's IEP committee so that a summer break period will not render the previous year's program of no meaningful educational benefit. The term "extended school year" does not necessarily mean that services are provided for a twelve-month period; it does refer, however, to those services which are required to be extended beyond the regular 180 day school year to enable the child to derive a meaningful educational benefit. Failure to maintain an acquired skill as a result of an extended interruption of special education or related services to the extent that a period of nine weeks of instruction is required to regain previous competence will be considered evidence of the need for ESY services.

Once the definition and procedures were developed, the pilot districts began the process of reviewing children with disabilities to determine their need for extended school year services. As each district worked through this process, periodic status reports were given to the Oversight Committee and/or to Ms. Lowman. Interim reports were submitted as outlined in the original plan developed by Ms. Lowman as Oversight Committee Chairperson.

The Oversight Committee also provided input as to the method for disbursing among the three (3) districts the $60,000.00 which had been appropriated for the pilot project. Based on these recommendations, each of the three districts received a base allocation of $10,000.00. By June 7, 1991, each district was required to submit a count of students who would be participating in the pilot project. A copy of the form for this report in included as Appendix C of this report.

The total number of students reported by the districts was to be divided into the remaining $29,735.00 (owing to mid-year budget cuts) to determine a per-child allocation. This amount was then multiplied by the number of participating students in each district to determine the amount of increase in the grant award for each district.

Under the Terms and Conditions of the grant award and in accordance with the proviso, only those students who would be receiving a minimum of twenty (20) instructional days, including holidays, were eligible to be counted. The count received from Beaufort County School District stated that there were no children in the district who were eligible to be counted for participation in the Extended School Year Pilot Project. As the $10,000.00 which had been advanced to the district could be expended only for the provision of extended school year services and as Beaufort County School District reported a count of zero (0), Beaufort County School District was required to remit the $10,000.00 to the State Department of Education. This $10,000.00 was added to the remaining $29,735.00, so that a total of $39,735.00 was then available for disbursement in accordance with the procedures to the other two districts.

Cherokee County School District reported a total of 21 students who were eligible to participate in the Extended School Year Pilot Project and Chesterfield County School District reported 72 children. Based on these figures, Cherokee County received additional funds in the amount of $8,972.00 and Chesterfield County received an additional $30,763.00.

The three pilot districts completed their first year of extended school year service review and delivery in August, 1991. At the September 6 meeting of the Oversight Committee, each district submitted a draft report of their individual projects. A copy of the final report from each of the districts follows in the next section of this report.

In general, the three pilot districts included the determination of eligibility for extended school year services as part of the annual review of children's Individualized Education Programs or as part of the initial placement and development of the Individualized Education Programs. The general impressions the Oversight Committee drew from these reports were (1) that reactions from parents, children and district staff were positive; (2) that the procedures worked smoothly and efficiently; and (3) that the extended school year services successfully met identified goals and objectives for the individual children who participated. Each district projects some changes for the ensuing year and has identified needs to be addressed through staff development and fiscal planning.

The Oversight Committee also heard from other districts who were not part of the pilot project, but who offered some form of services during the summer break. Information from two of those districts, Charleston and Greenville, has been included in Appendix D of this report.

As the Oversight Committee drew its activities to a conclusion, several issues surfaced. These issues pose continuing concerns which will need to be addressed as districts and the State continue to provide extended school year services to children with disabilities.

Issues of Concern

Throughout the course of its meetings, members of the Oversight Committee identified areas of concern revolving around implementation of extended school year services across the state. A brief synopsis of those issues is presented here.

Screening for Eligibility for Extended School Year

From the first meeting of the Oversight Committee the stated philosophical viewpoint has been that all children with disabilities who have an Individualized Education Program must be screened for potential eligibility for extended school year services. Further, the procedures were developed calling for each service provider to complete a screening form for each child on his or her caseload. For example, if a child was receiving special education, speech and language services and physical therapy, then a separate screening form for that child would be completed by the child's special education teacher, another by the speech and language clinician, and a third by the physical therapist.

Regardless of the results of the screening, the Oversight Committee has also stated that the issue of extended school year must be discussed at each Individualized Education Program meeting so that the parent(s) will be fully aware of the process for determining eligibility and have the opportunity to provide any information or ask any questions concerning the provision of extended school year services.

For those children for whom an extended school year is deemed appropriate, an Extended School Year Individualized Education Program Addendum will be developed, which will also serve as documentation of this decision-making process and of the parents' involvement in this process. For those children for whom an extended school year is not deemed appropriate, some other form of documentation will be needed. The Oversight Committee suggests that agencies add a section to their forms for Individualized Education Programs to document that extended school year services have been discussed during the Individualized Education Program meeting with the parents.

Procedural Safeguards and Due Process Procedures

In addition to documentation on the Individualized Education Program form, the right to an extended school year should be fully explained to parents. One method for ensuring that this is communicated to parents is to include a section on extended school year in the handbook for parents which districts use to list and explain all the procedural safeguard and due process rights accorded to parents.

Should the parents and the agency disagree on whether an extended school year should be provided for their child, either party has the right to request an impartial due process hearing. However, unless this process is started early enough in the spring, the summer break could be over by the time a hearing could be held. If at all possible, the Oversight Committee recommends that meetings be held with parents of those children with disabilities for whom there is reason to suspect a disagreement early enough so that some agreement can be reached prior to the summer break.

Related to this is the issue of parents refusing for their child to participate in extended school year services. As will be seen in the reports from the districts, parents frequently have very good reasons for not wanting services during the summer break. In one particular case in Chesterfield

County, the child spent the summer with the non-custodial parent who resides in another state. Recent opinions from the Office of Special Education Programs, United States Department of Education, seem to indicate that the agency has an obligation to pursue with diligence any case in which parents refuse services. In order for the South Carolina Department of Education's FY 1991-93 State Plan under Part B of the Individuals with Disabilities Education Act to proceed from conditional to full approval, several amendments to the Plan were required. The relevant amendment is quoted from page 50 of the State Plan, as follows:

> "In order to ensure that a child is not denied a free appropriate public education, a public agency must invoke procedures to resolve a conflict in cases where a parent refuses consent subsequent to intial evaluation and placement. Such procedures may include informal means, such as further discussion with the parent in an attempt to gain consensus, or initiating a due process hearing."

The Oversight Committee was very concerned that, in those situations where parents have legitimate reasons for not wanting their child to participate in extended school year, the district would be fostering an adversarial relationship with parents if, indeed, it would be necessary for the district to request a due process hearing. Consensus of the members was that, in their view, extended school year was an additional service being offered by the district and that the parents could refuse for their child to participate, just as they could refuse for their child to participate in other programs without the need for a due process hearing.

Transportation

The issue of transportation for extended school year services has been discussed by the Oversight Committee throughout its meetings. Clearly, transportation to and from extended school year services must be provided at no cost to the parents. However, whose cost should this be? The Oversight Committee debated whether transportation should be provided by the State or by the local agency. For this pilot project transportation costs were paid by the local districts utilizing proviso funds through a contract with the State or with the parents of participating students. Clarification of financial responsibility for transportation costs has been requested by the Oversight Committee.

Reports from the Participating Districts

Individual reports from Beaufort County School District, Cherokee County School District and Chesterfield County School District are contained in the next portion of this document.